

Ethical Standards for Non-Decision-Making Neutrals
Discussion Draft
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**Ethics Committee, Environment and Public Policy Section
Association for Conflict Resolution**

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Introduction

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2
3 Since January 2005, the Ethics Committee of the Environment and Public Policy
4 (EPP) Section of ACR has been discussing what ethical standards ought to apply to
5 section members. This document is a draft set of standards with commentary.
6

7 A bit of history will set these draft standards in perspective. This effort began
8 because some section members felt that the practice of public policy facilitation and the
9 practice of mediation are distinct, necessitating separate standards. The Ethics Committee
10 Chair of the section requested the EPP section Co-chairs' permission to convene a group
11 to discuss and propose a set of ethical standards that would apply to public policy
12 facilitation. The committee initially consisted of three practitioners and a mentee. Within
13 six months it added another practitioner and two resource members. Early on, the
14 committee members decided that the discussions should be limited to suggesting
15 standards for "public policy facilitations in agreement-seeking processes," a very narrow
16 focus that tracks the 1997 SPIDR Best Practices for Government Agencies guidelines.
17

18 In 2005, at the annual ACR conference, the committee offered a proposed set of
19 standards to the EPP section. Some section members were concerned that there would be
20 an abandonment of the Model Standards of Conduct for Mediators just as those standards
21 were being widely adopted. Some members of the Committee thought that it would be
22 clearer and easier to enforce standards if there were a single set in the field, using the
23 Model Standards of Conduct for Mediators as the logical choice. Other members felt a
24 new set of standards was needed. These concerns and comments led the committee to
25 reconsider whether the Model Standards of Conduct for Mediators could apply to the full
26 array of work that EPP section members do in agreement-seeking processes.
27

28 The committee soon became tangled in a discussion of whether the terms
29 "mediator" and "mediation" from the Model Standards really captured all of what section
30 members do and whether a single set of standards for mediation should be made to apply
31 to all other similar, yet distinct, processes.
32

33 To sidestep this debate, the committee coined a new term, "non-decision-making
34 neutral" (NDN). "NDN" includes a broad range of conflict resolution and management
35 professionals who design or conduct processes to assist people to come to shared
36 decisions. The term includes mediators and public policy process facilitators as well as
37 others. It does not include decision-making neutrals such as judges and arbitrators.
38

39 Substituting "NDN" for "mediator" in the Model Standards, the committee
40 reviewed the Model Standards again. The committee agreed not to change the Model
41 Standards unless they really need to be changed to incorporate all NDNs. Therefore, the
42 options for revision were (1) accept the Model Standard (and simply change "mediator"
43 to NDN), (2) accept the Standard and add comment to provide guidance for public policy
44 NDNs, or (3) revise the Model Standard to apply to all NDNs. The committee concluded
45 that while many of the Model Standards fit public policy NDNs, some did not; thus the
46 committee made changes where needed.

1
2 In May 2007, the chair and reporter of the committee prepared a working draft of
3 NDN standards that captured the committee’s discussions and revisions. The committee
4 offered this draft for comment from section members at the June 2007 section meeting
5 and the October 2007 ACR conference.
6

7 The present document offers a set of standards for NDNs incorporating the input
8 and further deliberations of the committee. The first nine standards have close
9 counterparts in the Model Standards of Conduct for Mediators. However, this draft
10 reflects the committee’s conclusion that some of the Model Standards need to be changed
11 in order to cover the broad range of processes, most notably Standard IV, Competence;
12 Standard V, Confidentiality; and Standard VI, Quality of Process.
13

14 The set of standards offered here are “umbrella” standards designed to apply to all
15 NDNs. In the comments following each standard, this committee has suggested
16 considerations for how the standards apply to NDNs conducting public policy agreement-
17 seeking processes. In a few cases, as a matter of clarification, the committee has provided
18 comments applicable to all NDNs. If the EPP Section Leadership Committee accepts
19 these standards, the Ethics committee will follow their instructions on how to proceed;
20 however, the Committee envisions that other members of the EPP Section will be invited
21 to provide comments.
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1 **DEFINITIONS & CONSTRUCTION**

2
3 Readers should construe these standards together, in their entirety. Their order does not
4 indicate priority or relative importance.

5
6 In the standards, the following definitions apply:

7
8 **Non-Decision-Making Neutral** or **NDN** means a third-party individual who, through
9 management of a process, helps a group take on substantive decision-making, agreement-
10 seeking, or consensus-building tasks, but who does not make substantive decisions for
11 them.

12
13 *Comment: As examples, mediators and public policy facilitators are NDNs.*
14 *Judges and arbitrators are not.*

15
16 **Convener** means an individual, agency, organization, or other entity that brings persons
17 together to address an issue, problem, or dispute. This term also includes process
18 sponsors (the entities paying the NDN) and referring courts.

19
20 **Participant** means an individual (1) who is a decision-maker or a representative of a
21 decision-maker and (2) who takes part in deliberations “at the table” in a process guided
22 by an NDN.

23
24 *Comment: The term does not include the NDN or any observers or advisors*
25 *present, even if they have occasional opportunity to make comments or provide*
26 *expertise to the group. “At the table” includes physically meeting together or*
27 *meeting by telephone, video, or other means. In some processes, the convener is*
28 *also a participant.*

29
30 **Constituency** means a group or entity represented by a participant.

31
32 *Comment: Sometimes the standards need to refer to those with a direct voice in*
33 *the substantive outcome of the process (the participants) and sometimes to a*
34 *larger group involved in the process (the constituencies).*

35
36 **Others**, when used in conjunction with participants, means anyone else besides the NDN
37 “in the room” during deliberations and decision-making.

38
39 *Comment: “Others” may include staff, experts, observers, and so forth. “In the*
40 *room” means physically present or linked via telephone, video, or similar means.*
41 *“Others” includes persons whether or not they have opportunity to make*
42 *comments or provide input to the group.*

43
44 **Impartiality** means freedom from favoritism, bias, or prejudice in word, action, or
45 appearance.

1 **Self-determination** means the ability to make free and informed choices about process
2 and substance.

3

4 The use of “**shall**” in a standard indicates that the NDN must follow the practice
5 described.

6

7 The use of “**should**” indicates that the practice is highly desirable, but not mandatory;
8 however, departures require strong reasons and deliberate exercise of judgment and
9 discretion.

10

11 **Includes** means “includes, but is not limited to.”

12

13 The use of singular or plural nouns does not limit the scope of a standard. A standard
14 discussing the obligations of an NDN applies equally to a team of NDNs. A standard
15 discussing an NDN’s obligations to the convener applies equally if there are multiple
16 conveners.

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STANDARD I. SELF-DETERMINATION

- A. A non-decision-making neutral (NDN) shall conduct a process based on the principle of participant and constituency self-determination.
 - 1. Although participant and constituency self-determination for process design is a fundamental principle of dispute prevention and resolution practices, an NDN’s ability to ensure self-determination varies with the nature of the process. An NDN may need to balance such participant and constituency self-determination with an NDN’s duty to conduct a quality process in accordance with these Standards.
 - 2. An NDN cannot personally ensure that each participant and constituency has made free and informed choices to reach particular decisions, but, where appropriate, an NDN should make the participants and constituencies aware of the importance of consulting other professionals to help them make informed choices.
- B. An NDN shall not undermine participant or constituency self-determination to achieve consensus or settlement, to satisfy egos, to justify increased fees, or to respond to outside pressures.

EPP Ethics Committee Discussion: Applying the principle of self-determination can be difficult in the public policy arena. Government agencies may participate under order of higher authority. Participants and constituencies may have little choice regarding selection of the neutral; the neutral may be hired to begin conflict assessment or advise on process design before anyone other than the convener is aware a process is being planned.

Although circumstances may constrain the participants’ ability to make their own choices in the above matters, the NDN should not further constrain them, even in matters such as initial selection, approval, or rejection of the neutral.

An NDN should seek ways for participants to become informed and to level the information playing field (e.g., presentations, reports, experts, etc.).

Pressures to bring a process to resolution may come from internal sources, such as the NDN’s desire to have a “successful” track record, or from external sources, such as conveners, administrators, or government officials. The NDN should not succumb to these pressures at the expense of participant or constituency self-determination.

* * *

1 **STANDARD II. IMPARTIALITY**

- 2
- 3 A. An NDN shall decline to conduct a process if the NDN cannot conduct it in an
- 4 impartial manner.
- 5
- 6 B. An NDN shall conduct a process in an impartial manner and avoid conduct that
- 7 gives the appearance of partiality.
- 8
- 9 1. An NDN shall not act with partiality or prejudice based on personal
- 10 characteristics, background, values and beliefs, performance at a process,
- 11 or any other reason.
- 12
- 13 2. An NDN shall neither give nor accept a gift, favor, loan, or other item of
- 14 value that raises a question as to the NDN's actual or perceived
- 15 impartiality. An NDN may accept or give de minimus gifts or incidental
- 16 services to assist with a process or respect cultural norms so long as such
- 17 practices would not cause a reasonable observer to question the NDN's
- 18 impartiality.
- 19
- 20 C. If at any time an NDN is unable to conduct a process in an impartial manner, the
- 21 NDN shall withdraw.
- 22
- 23

24 **EPP Ethics Committee Discussion:** Maintaining impartiality and avoiding the

25 appearance of partiality may present particular challenges in a public policy process.

26

27 For example, payment for the NDN's services often comes from a single source,

28 and sometimes repeatedly from the same source. The NDN's loyalty must always be to

29 the process, without regard to the source of payment.

30

31 Impartiality is a key factor marking an NDN. A convener might hire anyone to

32 conduct a meeting, but when the convener hires an NDN, the NDN must remain impartial

33 and place loyalty to the process over loyalty to the convener.

34

35 Public policy processes are often lengthy, offering opportunities to form social

36 ties. Often too, the neutral's experience in a particular area may create personal or

37 professional relationships. These could lead to bias or the appearance of partiality.

38

39 In applying this standard, the NDN will sometimes find it difficult to draw bright

40 lines. An objection of partiality from a single participant or other person does not always

41 indicate a violation of the standard. The issue is what a reasonable person would consider

42 likely to create bias. An NDN should weigh all raised objections and should discuss

43 questions of partiality with the convener and participants.

44

45

46 * * *

1
2
3 **STANDARD III. CONFLICTS OF INTEREST**
4

- 5 A. An NDN shall avoid a conflict of interest or the appearance of a conflict of
6 interest during and after a process. A conflict of interest can arise from
7 involvement by an NDN with the subject matter of the dispute or from any
8 relationship between an NDN and any person whether past or present, personal or
9 professional, that reasonably raises a question of an NDN's impartiality.
10
11 B. An NDN shall make a reasonable inquiry to determine whether there are any facts
12 that a reasonable individual would consider likely to create a potential or actual
13 conflict of interest for the NDN.
14
15 C. An NDN shall disclose, as soon as practicable, all actual and potential conflicts of
16 interest that are reasonably known to the NDN and could reasonably be seen as
17 raising a question about the NDN's impartiality.
18
19 D. If an NDN learns any fact after accepting a process that raises a question with
20 respect to that NDN's service creating a potential or actual conflict of interest, the
21 NDN shall disclose it as soon as practicable.
22
23 E. If an NDN's conflict of interest might reasonably be viewed as undermining the
24 integrity of the process, the NDN shall withdraw from or decline to proceed with
25 the process regardless of the expressed desire or agreement of the convener,
26 participants, or constituencies to the contrary.
27
28 F. Subsequent to a process, an NDN shall not establish any other relationship in a
29 manner that would raise questions about the integrity of the process or create a
30 perceived or actual conflict of interest. When an NDN develops personal or
31 professional relationships with anyone following a process in which they were
32 involved, the NDN should consider factors such as time elapsed following the
33 process, the nature of the relationships established, and services offered when
34 determining whether the relationships might create a perceived or actual conflict
35 of interest.
36
37

38 **EPP Ethics Committee Discussion:** Conflict of interest presents challenges across the
39 spectrum of NDN practices. The actions necessary to accomplish a reasonable inquiry
40 into potential conflicts of interest will vary based on practice context.
41

42 In the public policy arena because the issues are public, they affect the NDN as a
43 member of the public. Ordinarily the NDN's status as a citizen is not enough to constitute
44 a conflict of interest. To be considered the source of a conflict, the outcome must affect
45 the NDN on a significant personal or financial level. For example, past electoral support

1 for or opposition to an official involved in the conflict would not be a conflict of interest
2 unless the support or opposition was notably strong or public.

3
4 A single claim of conflict of interest does not necessarily disqualify an NDN. The
5 test to apply is in III(E): whether the NDN's interest could be reasonably viewed as
6 undermining the integrity of the process.

7
8 Public policy can be a "small world," and NDNs often are asked to conduct
9 processes involving people they know. The convener may have hired the NDN before or
10 even be the NDN's employer. The NDN may have social ties to people who work for the
11 convener, the participants, or the constituencies. These relationships should be disclosed,
12 but they do not necessarily give rise to an incurable conflict. Whether they create an
13 actual conflict and whether the conflict can be cured through disclosure depends on the
14 nature of the relationship and sometimes the nature of the policy issue.

15
16 This "small world" concern applies equally to relationships formed after a process
17 closes. It may be acceptable to form professional or social relationships with previous
18 conveners, participants, and constituencies. It is unacceptable if the new relationships
19 raise an appearance that the NDN may have had an interest in the outcome of a
20 completed process. Unacceptable examples include taking a high-paying job with a
21 convener, participant, or constituency soon after a process, or investing in a commercial
22 development after a process resolved the terms for its zoning.

23
24 * * *

25
26
27 **STANDARD IV. COMPETENCE**

- 28
29 A. An NDN shall provide services only when the NDN has the necessary
30 competence to satisfy the reasonable expectations of the convener, participants,
31 and constituencies.
- 32
33 1. An NDN shall either have or promptly acquire enough familiarity with the
34 subject matter to conduct the process effectively.
 - 35
36 2. Any person may be selected as an NDN, provided that the convener,
37 participants, and constituencies are satisfied with the NDN's competence
38 and qualifications. Training, experience in the process, skills, cultural
39 understandings, and other qualities are often necessary for NDN
40 competence. A person who offers to serve as an NDN creates the
41 expectation that the person is competent to perform effectively.
 - 42
43 3. An NDN shall, through educational programs or other means, maintain
44 and enhance the NDN's knowledge and skills in the processes for which
45 the NDN provides services.
 - 46

- 1
2 B. An NDN shall abide by confidentiality and openness laws and related legal
3 requirements. An NDN shall abide by the guidelines and agreements reached with
4 the convener and participants on these matters, unless the NDN has obtained
5 specific permission of the convener and participants to deviate from the
6 guidelines or agreements.
7
8 C. If an NDN participates in peer consultation, teaching, evaluation, or research, the
9 NDN should protect and abide by the convener, participants, and constituencies'
10 reasonable expectations regarding anonymity and confidentiality.
11

12
13 **EPP Ethics Committee Discussion:** A public policy process may be almost entirely
14 public, by law. Many times, keeping group discussions confidential is simply not an
15 option. In order to encompass a broad range of processes, Standard V differs significantly
16 from the Model Standard on confidentiality.
17

18 The NDN must have a grasp of confidentiality in the context of sunshine law and
19 openness requirements. The NDN needs to know enough to operate day-to-day, to
20 explain the basics to others, and to recognize when a situation calls for expert advice.
21

22 The convener, participants, and others must come to understand any external rules
23 governing confidentiality. The NDN must promote awareness and understanding of the
24 consequences of any external rules before addressing substantive matters. Sunshine or
25 other laws may set the basic rules for confidentiality of meetings, but to those matters left
26 to conveners or participants, such as private discussions with the NDN, disclosures by the
27 NDN to the convener, attributions in any reports of the meeting prepared by the NDN, or
28 public statements made outside the process, the conveners or participants may want to
29 adopt additional understandings.
30

31 NDNs have a general duty to be discreet. When in doubt, the NDN should treat
32 matters as confidential. An NDN may consult a colleague privately for advice; the
33 colleague giving advice should treat the matter as confidential unless some other
34 understanding is reached.
35

36 * * *

37
38
39 **STANDARD VI. QUALITY OF THE PROCESS**
40

- 41 A. An NDN shall conduct a process in accordance with these Standards and in a
42 manner that promotes diligence, timeliness, safety, presence of the appropriate
43 participants and others, participant engagement, procedural fairness, participant
44 competency, and mutual respect among all.
45

- 1 1. An NDN shall agree to serve only when the NDN is prepared to commit
2 the attention essential to an effective process.
- 3
- 4 2. An NDN shall only accept cases when the NDN can satisfy the reasonable
5 expectation of the convener and participants concerning the timing of a
6 process.
- 7
- 8 3. An NDN should promote honesty and candor between and among all
9 involved, and an NDN shall not knowingly misrepresent a material fact or
10 circumstance in the course of a process.
- 11
- 12 4. An NDN shall ensure that the purpose, limitations, duties, and costs of the
13 participants and others in the process are stated clearly so that they do not
14 have unrealistic expectations of their role or impact.
- 15
- 16 5. The role of an NDN differs substantially from other professional roles.
17 Mixing the role of an NDN and the role of another profession can cause
18 confusion and thus, an NDN should distinguish between the roles. An
19 NDN may provide information to the participants that the NDN is
20 qualified by training or experience to provide, only if the NDN can do so
21 consistent with these Standards.
- 22
- 23 6. An NDN shall not undertake both decision-making and non-decision-
24 making roles in the same matter without the consent of the participants.
25 Before providing such service, an NDN shall inform the participants of the
26 implications of the difference in process under the two roles. An NDN
27 who undertakes a decision-making role assumes different duties and
28 responsibilities that may be governed by other standards.
- 29
- 30 7. An NDN shall not mischaracterize a process to avoid legal constraints or
31 claim undeserved legal protections.
- 32
- 33 8. If a process is being used to further criminal conduct, an NDN shall take
34 appropriate steps including, if necessary, postponing, withdrawing from,
35 or terminating the process.
- 36
- 37 9. If a participant has difficulty actively participating in a process, the NDN
38 shall explore how to improve the participant's capacity to participate,
39 comprehend, and exercise self-determination.
- 40
- 41 B. If an NDN learns of behavior that jeopardizes conducting a process consistent
42 with these Standards, an NDN shall take appropriate steps, including, if
43 necessary, postponing, withdrawing from, or terminating the process.
- 44
- 45

1 **EPP Ethics Committee Discussion:** To cover a broader set of processes and address
2 Quality of Process in the public policy context, this standard differs significantly from the
3 Model Standard on Quality of the Process.

4
5 Standard VI(A)(1), requiring attention to the process, is worthy of a mandatory
6 “shall” rather than an advisory “should” as in the Model Standards. Standard VI(A)(2),
7 concerning meeting timing expectations, is really a part of the requirement in VI(A)(1),
8 and also deserves to be mandatory.

9
10 Model Standard VI(A)(3) states—

11
12 The presence or absence of persons at a mediation depends on the agreement of
13 the parties and the mediator. The parties and mediator may agree that others may
14 be excluded from particular sessions or from all sessions.

15
16 In many public processes, participants may have no control over who sits at the table. If
17 sunshine laws apply, they also may not be able to exclude observers. The committee has
18 omitted language equivalent to Model Standard VI(A)(3).

19
20 The committee omitted Model Standard VI(A)(7), regarding recommending
21 arbitration or other neutral processes. The committee determined it was guidance that
22 does not need to be an ethical standard. The committee agrees, though, that when
23 appropriate, an NDN may recommend that parties consider resolving their dispute
24 through other processes.

25
26 Model Standard VI(A)(8) is the basis for Standard VI(A)(6). The revisions here to
27 Model Standard VI(A)(8) restrict it to the situation where the neutral takes on a decision-
28 making role. Although Standard VI(A)(6) specifically mentions informing only
29 participants, there is no bar on providing information to the conveners, constituencies, or
30 others.

31
32 Standard VI(A)(9), which is based on Model Standard VI(A)(10), raises some
33 complex issues in public policy situations. The duty in Standard VI(A)(9) extends only to
34 those actively participating in the process, not to those who have an interest but who
35 choose to participate through a representative or fail to participate at all. However it is not
36 meant to bar contacting the constituency of a participant.

37
38 Standard VI(B) combines Model Standard VI(B), which requires a response to
39 signs of domestic abuse or violence, and Model Standard VI(C), which requires
40 responses to other conduct that jeopardizes the quality of the process. The new standard
41 applies to a broad set of circumstances; it requires an NDN to respond appropriately to
42 domestic abuse and violence, as well as to other disruptive behaviors more likely to be
43 encountered in public policy processes.

44
45 To make this standard more objective and therefore more enforceable, the
46 committee replaced the phrase “If a mediator believes that” with the phrase “If an NDN

1 learns of”.

2
3 If the conduct of any person is harming the integrity of the process, the neutral
4 should take appropriate steps to restore productivity. In a public policy process, this may
5 mean discussing the behavior with the convener and participants.

6
7 * * *

8
9
10 **STANDARD VII. ADVERTISING AND SOLICITATION**

- 11
12 A. An NDN shall be truthful and not misleading when advertising, soliciting, or
13 otherwise communicating the NDN’s qualifications, experience, services, and
14 fees.
15
16 1. An NDN shall not include any promises as to outcome in communications,
17 including business cards, stationery, or those that are computer-based.
18
19 2. An NDN shall only claim to meet the qualifications of a governmental
20 entity or private organization as an NDN if that entity or organization has
21 a recognized procedure for qualification and it grants such status to the
22 NDN.
23
24 3. An NDN shall not claim a qualification that the NDN does not have. An
25 NDN shall not represent that competence in one process assures
26 competence in a process requiring different skills.
27
28
29 B. An NDN shall not advertise or solicit in a manner that undermines the integrity of
30 any of the processes for which the NDN is advertising.
31
32 C. In advertising and promotional materials, an NDN shall protect and abide by
33 conveners and participants’ reasonable expectations regarding anonymity and
34 confidentiality.
35
36

37 **EPP Ethics Committee Discussion:** Note that the Model Standards VII(A)(1) and (2)
38 use “should”. Standard VII(A)(1) and (2) use “shall”.
39

40 Under Standard VII(A)(2), it is reasonable for an NDN to list professional
41 memberships. However, the NDN should not suggest that membership in an organization
42 or listing on an agency roster of neutrals is the same as holding a license or certification.
43 This standard prohibits NDNs from making claims of certification when the only fair
44 claim is membership or listing. Beyond claiming membership, an NDN may promise in
45 advertising to abide by a group’s ethical standards, whether or not they are enforced.
46

1 Standard VII(A)(3) recognizes that an NDN who is qualified in one process may
2 not be qualified in others. Competence as a mediator, for example, does not necessarily
3 make one competent as a public policy facilitator, and vice versa. Similar statements can
4 be framed involving those with qualifications for the bench or bar. Standard VII(A)(3)
5 will not stop a retired judge from including judicial experience in her advertising as an
6 NDN. However, the judge should not suggest that experience as a judge qualifies her as
7 an NDN.
8

9 In general under Standard VII(A), an NDN who highlights past work should be
10 careful not to mislead potential clients concerning the magnitude of the NDN's
11 contribution or involvement.
12

13 * * *

14
15
16 **STANDARD VIII. FEES AND OTHER NDN CHARGES**
17

18 A. An NDN shall make available information regarding who is paying for the NDN's
19 services. When requested by any participant or constituency an NDN shall
20 provide specifics about the NDN's fees and other charges related to the process.
21

22 1. If an NDN charges fees, the NDN should develop them in light of all
23 relevant factors, including the type and complexity of the matter, the
24 qualifications of the NDN, the time required, and the rates customary for
25 such services.
26

27 2. If an NDN charges fees, an NDN's fee arrangement should be in writing.
28

29 B. An NDN shall not charge fees in a manner that impairs the NDN's impartiality.
30

31 1. An NDN shall not enter into a fee agreement that is contingent upon the
32 result of the process.
33

34 2. While an NDN may accept unequal fee payments, an NDN shall not allow
35 such a fee arrangement to adversely impact the NDN's ability to conduct a
36 process in an impartial, efficient, and competent manner.
37

38 C. If an NDN volunteers services or reduces fees in the public interest, the NDN
39 shall not allow that difference in compensation to affect the quality of the process.
40
41

42 **EPP Section Ethics Committee discussion:** If not disclosed, fees and expenses can
43 become a source of distrust, disagreement, disappointment, and conflict. To avoid
44 surprises and misunderstandings that might damage the process, the participants should
45 know early on who is paying. The NDN can tell them directly, or someone else can brief

1 them. The requirement to disclose to participants and constituencies does not prohibit
2 disclosure to others.

3
4 Sometimes a salaried employee’s duties include serving as an NDN, and the
5 employee earns no special compensation for a particular process. In those situations, the
6 NDN should disclose the name of the employer and may refer people with questions
7 about fees to the employer.

8
9 Contingent fee agreements pave the way for conflicts of interest and corrode
10 impartiality. The committee has made avoiding them an absolute requirement, unlike the
11 Model Standard VIII(B)(1).

12
13 Standard VIII(B)(2) deletes the words “from the parties” from the Model
14 Standards. In public policy processes there is often a single payer, which is often the
15 convener. Unequal fee arrangements do not automatically create bias and are acceptable
16 if they do not harm the NDN’s credibility and effectiveness. The NDN should be sure
17 that the conveners and the participants understand that regardless of who is paying, the
18 NDN works on behalf of all participants.

19
20 * * *

21
22
23 **STANDARD IX. ADVANCEMENT OF THE PRACTICE**

24
25 A. An NDN should act in a manner that advances the practice of dispute prevention
26 and resolution. An NDN promotes this Standard by engaging in some or all of the
27 following:

- 28
29 1. Fostering diversity in the profession.
30
31 2. Striving to make dispute prevention and resolution services accessible to
32 those who elect to use them, including providing services at a reduced rate
33 or on a pro bono basis as appropriate.
34
35 3. When given the opportunity, participating in research, evaluation, and
36 feedback.
37
38 4. Participating in outreach and education efforts to assist the public in
39 developing an improved understanding of, and appreciation for, dispute
40 prevention and resolution.
41
42 5. Assisting newer NDNs through training, mentoring, and networking.

43
44 B. An NDN should demonstrate respect for differing points of view within the
45 profession, seek to learn from others, and work together with others to improve
46 the profession and better serve people in need of the NDN’s services.
47

1
2 **EPP Section Ethics Committee discussion:** The committee encourages NDNs to see
3 their profession as embracing not just process activities but also larger endeavors that
4 include training, research, and public education.

5
6 Standard IX(A)(2) encourages NDNs to provide services at a reduced rate or on a
7 pro bono basis. NDNs who regularly undertake this kind of work should offer these
8 services to a variety of groups, to avoid creating an appearance of bias.

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13 **STANDARD X. MAINTAINING THE INTEGRITY OF THE PROFESSION**

- 14
15 A. An NDN shall place the interests of the process and all associated with it above
16 personal interest.
17
18 1. An NDN shall place the interests of the process above the interests of a
19 convener.
20
21 2. An NDN shall not prolong a process or otherwise compromise its quality
22 for personal gain.
23
24 3. An NDN shall not voluntarily withdraw from an ongoing process in a way
25 that unreasonably disrupts the process.
26
27 B. An NDN shall not engage in conduct that reflects adversely upon honesty,
28 trustworthiness, or fitness to serve as a neutral.
29
30 1. An NDN shall not knowingly lie, conceal a fact, or exploit a
31 misunderstanding to get a membership, license, or similar professional
32 benefit.
33
34 2. If an NDN acquires confidential information, the NDN shall not use the
35 information to gain advantage over others.
36
37 C. An NDN shall not knowingly assist another to violate these standards.
38
39 D. An NDN who knows that another NDN has violated of these standards in a
40 manner that raises a substantial question about the NDN's honesty,
41 trustworthiness, or fitness as an NDN shall inform the professional body
42 enforcing these standards.
43
44

1 **EPP Section Ethics Committee discussion:** This Standard has no clear antecedent in the
2 Model Standards. The committee believes that the points here are part of professional
3 conduct.

4
5 In Standard X(A)(3) whether a disruption is unreasonable depends both on the
6 circumstances prompting the withdrawal and the nature of the disruption.

7
8 Standard X(B)(2) is about not taking advantage of “inside information.”
9 Standard V, Confidentiality, limits what a neutral can disclose. This standard limits how a
10 neutral can act.

11
12 Standard X(D) is a reporting provision. Reporting provisions have been
13 controversial in other settings. The committee specifically asks for input on whether this
14 clause should be included.

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