

2010 APPLICATION for CREDENTIAL

TEXAS
MEDIATOR
CREDENTIALING
ASSOCIATION



Application Instructions: (1) Complete the APPLICANT INFORMATION section. (2) In the CREDENTIAL DESIGNATION section check the credential designation for which you are applying. Pages 2 and 3 show the requirements and fees for the different designations. (3) In the QUALIFICATIONS section, provide the requested information regarding your mediation training and your mediation experience. (4) Read the TERMS AND CONDITIONS section. (5) Sign the APPLICANT CERTIFICATION section on page 6 at the end of the TERMS AND CONDITIONS section. And (5) see the SUBMISSION INSTRUCTIONS at the bottom of this page for the details for submitting the application.

APPLICANT INFORMATION

Name: <input type="text"/>	
Firm/Business or Private Sector: <input type="text"/>	Home Phone: <input type="text"/>
Street or Box #: <input type="text"/>	Business Phone: <input type="text"/>
City: <input type="text"/>	Fax: <input type="text"/>
State and Zip Code: <input type="text"/>	Email: <input type="text"/>

CREDENTIAL DESIGNATION, check the designation level for which you are applying.

<input type="checkbox"/> Credentialed Distinguished	<input type="checkbox"/> Credentialed Advanced	<input type="checkbox"/> Credentialed	<input type="checkbox"/> Candidate for Credential
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QUALIFICATIONS

Forty Hour Basic Mediation Training , must meet or exceed the TMTR training criteria.	
Name of Training Organization: <input type="text"/>	Date of Training: <input type="text"/>
Advanced Mediation Training	Mediation Experience
Hours: <input type="text"/>	Number of Mediations: <input type="text"/> or, Hours of Mediation: <input type="text"/>

SUBMISSION INSTRUCTIONS

In order to receive credentialing, applicants must submit ALL of the three (3) items listed below.

1. A completed Application for a Credential with the Terms and Conditions for Credentialing agreement, signed and dated on page 6.
2. A copy of the applicant's Forty (40) Hour Basic Training Certificate, and
3. A check, payable to TMCA, in the amount of the application fee for the requested credential designation. The first year fee varies depending upon the application date. See the Annual Fee table on page 3.

Send all three (3) items above to: TMCA c/o John P. Palmer; Naman, Howell, Smith & Lee, PLLC; P.O. Box 1470; Waco, TX 76703-1470, phone 254-755-4100, fax 254-754-6331.

TMCA CREDENTIAL DESIGNATIONS AND REQUIREMENTS

NOTE: The TMCA Board of Directors reserves the right to change the requirements for any Credential Designation.

DEFINITIONS

For the purposes of credential designation requirements, the following definitions shall apply:

1. **Annual** - a calendar year that begins on the first day of January.
2. **Basic 40 hour training** - completion of a minimum of 40 classroom hours of training pursuant to Chapter 154.052 (a) Texas Civil Practice and Remedies Code. Applicants must attest and send a copy of their certificate to TMCA that demonstrates their training meets or exceeds the current criteria of the Texas Mediation Trainers Roundtable at www.tmtr.org.
3. **Conducted mediation** – a process during which the mediator communicates with the parties to a conflict either together or separately to identify with each known party the issues in dispute and possible solutions, and to encourage and facilitate communication, reconciliation, settlement and understanding between the parties.
4. **Mediation or Hours of mediation** - refers to ‘conducted mediation’ as defined above.
5. **Observation of a mediation** - that the person observed all of the work of a mediator during a conducted mediation without having any other role in that mediation.
6. **Training**- any training which meets TMCA criteria for training. See the criteria at www.txmca.org .
7. **Continuing Education**- minimum and maximum hour requirements:
 - a. Three (3) hours minimum of mediation ethics
 - b. Mediation Courses- no maximum number of hours
 - c. Five (5) hours maximum which may be education in a subject matter area involved in the cases mediated. The subject matter education must be provided through an organization recognized by practitioners in the subject matter area for providing such training and issues certificates of completion of training. e.g. Bar Associations CLE or other Association’s C.E.
 - d. Three (3) hours maximum of self study in mediation
 - e. Five (5) hours maximum as a trainer in mediation.

Adherence to TMCA Standards and Procedures – All applicants must affirm that they have read, understand and will adhere to the TMCA Standards of Practice and Code of Ethics as well as the TMCA Grievance Rules and Procedures.

Renewal criteria for each designation are available at <http://txmca.org/Maintenance%20&%20Renewal.pdf>.

See the full criteria and details at www.txmca.org.

CREDENTIAL DESIGNATION LEVELS, REQUIREMENTS AND FEES

REQUIREMENTS

<u>Credential Designation Level</u>	<u>Training/Education</u> (basic and advanced, hours)		<u>Experience</u> (either mediations or hours in mediation)		<u>Available for pro bono mediations</u>
	<i>Basic 40 hr. Mediation Course</i>	<i>Advanced Mediation</i>	<i>Mediations</i>	<i>Hours</i>	<i>Number</i>
Distinguished Credentialed	40	40	200	1000	5
Advanced Credentialed	40	20	50	300	2
Credentialed	40	0	20	125	0
Candidate for Credentialed	40	0	<20	<125	0

ANNUAL FEE

<u>Credential Designation Level</u>	<u>Fee</u>
Distinguished Credentialed	\$150
Advanced Credentialed	\$125
Credentialed	\$100
Candidate for Credentialed	\$50



TEXAS MEDIATOR CREDENTIALING ASSOCIATION

TERMS AND CONDITIONS FOR CREDENTIALING

1. PURPOSE AND OBJECTIVE: Texas Mediator Credentialing Association (“TMCA”) is a non-profit, non-governmental association that promotes quality mediation throughout Texas. TMCA provides annual voluntary credentialing for mediators in Texas. The undersigned is an applicant (“Applicant”) seeking one of the TMCA credential designations (“Credential Designation”) under the terms and conditions set forth below (“Terms and Conditions”).

2. MEANING AND USE OF CREDENTIAL DESIGNATION: Subject to these Terms and Conditions, TMCA grants the Applicant a non-exclusive and non-transferable right to use the Credential Designation granted to the Applicant. *The Applicant may only use the Credential Designation exactly as it appears on the Applicant’s Certificate of Credential Designation (the “Mark”) in association with the Applicant’s name on promotional displays and advertising materials.* The Applicant may not use a Credential Designation or claim to have obtained a Credential Designation from the TMCA unless the Applicant has completed the credentialing requirements. The Applicant may not use any TMCA logo or mark other than the Mark, and the TMCA reserves the right to deny use of the Mark, the TMCA logo, or any other TMCA mark at its sole discretion, at any time and for any reason. The words, spelling, case of the letters, comparative size of the words and letters, grammar, punctuation, and substance of the Mark may not be modified or altered in any way by the Applicant.

The Applicant agrees to immediately terminate the use of any Credential Designation granted by the TMCA at the request or instruction of the TMCA. Such request may be made pursuant to the TMCA Grievance Rules and Procedures or at any time and for any reason determined by the TMCA in its sole and exclusive discretion.

Inappropriate use of the Credential designation will result in the termination of the use of the Applicant’s Credential Designation. Such inappropriate use includes by way of example, but is not limited to, using the Credential Designation to mislead, misrepresent, imply or suggest that (1) the Applicant has obtained a Credential Designation that the Applicant has not, (2) the TMCA endorses or recommends the services provided by the Applicant or the Applicant’s employees, contractors or affiliates, (3) the TMCA has entered into a joint venture, partnership, or relationship with the Applicant other than having granted a Credential Designation to the Applicant, (4) the Credential Designation has any meaning or use other than that provided in this document, or (5) any other person, organization, or entity is entitled to the use or benefit of the Credential Designation granted to the Applicant.

The Applicant acknowledges that, if granted a Credential Designation by the TMCA, the Applicant is not acquiring a license, registration, or credential by, through, or under a governmental agency, and that the Credential Designation is not being acquired pursuant to a government contract.

3. ETHICS AND GRIEVANCES: The Applicant agrees to abide by the TMCA Standards of Practice and Code of Ethics, and the TMCA Grievance Rules and Procedures; and the Applicant agrees to the terms and provisions of both.

4. CONFIDENTIALITY: The Applicant understands that the matters communicated and records made in mediation are confidential. Such matters may not be disclosed to anyone without the consent of those who participated in the mediation, including the Applicant, unless otherwise provided by (1) TMCA Standards of Practice and Code of Ethics, (2) TMCA Grievance Rules and Procedures, or (3) Texas law.

5. WAIVER OF CONFIDENTIALITY: The Applicant hereby knowingly, intentionally, permanently, and expressly waives, gives up, and relinquishes any confidentiality to which the Applicant may be entitled, whether created by agreement, under the law, or the TMCA Standards of Practice and Code of Ethics, arising out of any mediation which is the subject of a grievance brought against the Applicant under the TMCA Grievance Rules and Procedures including, but not limited to, confidentiality concerning:

- (1.) Any communication relating to the subject matter of any civil or criminal complaint made by the Applicant or a participant in a mediation which is the subject of a grievance, whether before or after the institution of formal judicial proceedings; and
- (2.) any record made at such a mediation; and
- (3.) any agreement for confidentiality the Applicant made or participated in, in connection with such mediation.

The Waiver of Confidentiality in these Terms and Conditions is strictly limited in its application to a grievance brought under the T.M.C.A Grievance Rules and Procedures.

6. DISCLOSURE: The Applicant authorizes the parties to a mediation that is the subject of a complaint, to disclose documents and information as provided in the TMCA Grievance Rules and Procedures.

7. WAIVER OF LIABILITY: THE APPLICANT AGREES THAT THE TMCA, THE TMCA GRIEVANCE COMMITTEE, THE TMCA BOARD OF DIRECTORS, THOSE ACTING UNDER THE AUTHORITY OF THE COMMITTEE AND THE BOARD, AND THE EMPLOYEES AND REPRESENTATIVES OF THE TMCA (COLLECTIVELY “THE TMCA AND ITS REPRESENTATIVES”), SHALL NOT (INDIVIDUALLY OR COLLECTIVELY) BE LIABLE TO THE APPLICANT FOR ANY ACT OR OMISSION OF THE TMCA AND ITS REPRESENTATIVES (INDIVIDUALLY OR COLLECTIVELY), IN CONNECTION WITH ANY CREDENTIAL GRANTED OR DENIED TO THE APPLICANT BY THE TMCA, OR ANY GRIEVANCE BROUGHT AGAINST THE APPLICANT UNDER THE TMCA GRIEVANCE RULES AND PROCEDURES, OR IN CONNECTION WITH ANY OTHER MATTER ARISING HEREUNDER. THIS WAIVER OF LIABILITY SHALL SPECIFICALLY EXTEND TO LIABILITY CAUSED BY THE NEGLIGENCE OF THE TMCA AND ITS REPRESENTATIVES.

8. SPECIFIC WAIVER OF CONSUMER RIGHTS: THE APPLICANT WAIVES HIS OR HER RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF THE APPLICANT’S SELECTION, THE APPLICANT VOLUNTARILY CONSENTS TO THIS WAIVER.

9. INDEMNITY: THE APPLICANT AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE TMCA AND ITS REPRESENTATIVES FROM AND AGAINST ANY AND ALL HARM, DAMAGES, LIABILITY, CLAIMS, CAUSES OF ACTION, COSTS, EXPENSES, AND ATTORNEY’S FEES INCURRED AT ANY TIME BY ANY OF THEM, AND AS THE SAME ARE INCURRED (WITH OR WITHOUT LITIGATION AND PRIOR TO, DURING OR AFTER ANY LITIGATION), AS A RESULT OF ANY ACTION OR CLAIM BROUGHT BY, THROUGH OR UNDER THE APPLICANT. THIS INDEMNITY SHALL SPECIFICALLY EXTEND TO DAMAGES (ETC.) CAUSED BY THE NEGLIGENCE OF THE TMCA AND ITS REPRESENTATIVES.

10. DISPUTE RESOLUTION PROCEDURE: In the event that any dispute or any issue, except those related to the use of any TMCA mark, shall arise between the TMCA and the Applicant, the Applicant agrees to negotiate in good faith to try and resolve said dispute. In the event that such efforts do not resolve the dispute, then the Applicant agrees to attempt to resolve the dispute in mediation. The Applicant agrees that the following dispute resolution procedure shall be used to resolve any such dispute between the Applicant and the TMCA prior to any further legal action, such as filing suit, etc.

Mediation shall be commenced by the sending of a notice that:

- (1.) must be in writing;
- (2.) must be sent to the address contained in the Application for the sending of notices; and
- (3.) must be made in good faith, and state with reasonable certainty and in reasonable detail all of the pertinent facts regarding the dispute.

Within fifteen (15) working days (for the purposes of this document, working days include all days except Saturday, Sunday, or any day on which the U.S. Post Office is closed) after the Dispute Resolution Procedure has been invoked by written notice, the Applicant and the TMCA shall submit to each other in writing a list of three (3) proposed mediators. The Applicant and the TMCA shall then attempt to agree upon a mediator from these lists within five (5) working days. If the Applicant and the TMCA are unable to agree within the five (5) working days allotted, then each party shall appoint a mediator (“Appointed Mediator”) from their list. The two Appointed Mediators shall then agree upon a mediator (“Mediator”) within five (5) working days following their appointment. Neither the Applicant nor the TMCA shall file suit until the Dispute Resolution Procedure is completed.

Thereafter, and as soon as is possible, the Applicant and the TMCA shall mediate at such a place and time as designated by the Mediator pursuant to Chapter 154, Civil Practice & Remedies Code. The Applicant and the TMCA shall continue the mediation until the dispute is resolved by agreement, or the Mediator declares an impasse. The Applicant and the TMCA will equally divide the cost of the mediation unless the Applicant and the TMCA agree otherwise.

The dispute resolution procedure set forth in this section shall not delay, prevent or obstruct:

- (1.) the Applicant’s immediate compliance with the terms of this agreement, or
- (2.) any proceeding under the TMCA Grievance Rules and Procedures.

The Dispute Resolution Procedure set forth in this section shall not apply to, or have effect in, a dispute arising out of the use of any TMCA mark, or a request or instruction issued by the TMCA pursuant to Section 2 of this document: “Use of Credential Designation.”

12. COMMENCEMENT AND TERM: These Terms and Conditions are effective upon:

- (1) Receipt by the TMCA of the completed Application for Credential Designation; and
- (2) Receipt by the TMCA of these Terms and Conditions completed and signed by the Applicant; and
- (3) Issuance by the TMCA of the Certificate of Credential Designation.

The Terms and Conditions are in effect from the effective date until the earlier to occur of the following:

- (1.) The failure of the Applicant to timely complete the annual credentialing maintenance requirements for the Credential Designation;
- (2.) Notice from the TMCA that the Applicant has failed to timely comply with the annual credentialing maintenance requirements for the Credential Designation; or
- (3.) Notice from the TMCA that the Applicant’s Credential Designation has been terminated.

13. MODIFICATION: Any modification by the Applicant to these Terms and Conditions will render the document immediately null and void, and the Applicant will be denied a Credential Designation. The TMCA reserves the right to change these Terms and Conditions at any time and for any reason. Such changes will be effective on the credential renewal date following the date on which the changes are made.

14. COMMUNICATIONS AND NOTICES: All communications between (to and from) the TMCA and the Applicant in connection with these Terms and Conditions shall be in writing. The Applicant shall provide to the TMCA telephone numbers, addresses, tele-copier (fax) numbers, and email addresses through which the TMCA can communicate with the Applicant. The Applicant shall keep all contact information current with the TMCA. All notices and communications required to be given or sent by the TMCA to the Applicant pursuant to these Terms and Conditions may, in the TMCA’s discretion, be given by certified mail, return receipt requested, electronically, by email to the Applicant’s email address, or by facsimile sent to the Applicant’s tele-copier (fax) number and shall be effective when placed in the mail or sent. Receipt by the TMCA of any item, matter or communication in any manner sent to the TMCA shall be considered effective and complete when actually received by the TMCA.

15. LEGAL RIGHTS: THE APPLICANT UNDERSTANDS THAT SIGNING THIS DOCUMENT CAN AFFECT THE APPLICANT’S LEGAL RIGHTS AND THAT THE APPLICANT SHOULD OBTAIN INDEPENDENT LEGAL ADVICE BEFORE SIGNING.

APPLICANT CERTIFICATION

I CERTIFY THAT I MEET OR EXCEED ALL OF THE ATTACHED REQUIREMENTS FOR THE DESIGNATION I HAVE SELECTED, AND TO THE BEST OF MY KNOWLEDGE, ALL INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT. IF ACCEPTED FOR CREDENTIALIAL DESIGNATION, I AGREE TO ABIDE BY THE STANDARDS OF PRACTICE AND CODE OF ETHICS ADOPTED BY THE TEXAS MEDIATOR CREDENTIALING ASSOCIATION (TMCA) AND TO SUBMIT TO ITS GRIEVANCE PROCEDURE.

BY MY SIGNATURE BELOW, I ALSO AGREE TO ADHERE TO THESE TERMS AND CONDITIONS AND I FULLY ACKNOWLEDGE THAT I AM BEING GRANTED A CREDENTIALIAL DESIGNATION BASED ON ACCEPTANCE OF THESE TERMS AND CONDITIONS AND THAT I WOULD NOT BE GRANTED THE CREDENTIALIAL DESIGNATION BUT FOR MY AGREEMENT TO ADHERE TO THESE TERMS AND CONDITIONS.

Printed Name

Date

Signed

(Typing your name here represents a legal signature.)