



TEXAS MEDIATOR CREDENTIALING ASSOCIATION

TMCA's 40-Hour Basic Mediation Training Standards*

TRAINING CONTENT

The nine minimum areas of information that need to be covered in a basic mediation 40-hour training program include:

I. History of Mediation

Trainees need an understanding of the historical perspective of mediation because it has evolved over time and continues to evolve today.

II. Overview of ADR Legislation in Texas

Trainees should be introduced to legislation that regulates the practice of mediation, so they may comply with relevant legal requirements.

III. Conflict Resolution Theory

The theory of conflict resolution helps trainees differentiate between mediation and other forms of dispute resolution. Topics include:

- A. Definitions, types of, sources of, and responses to conflict
- B. Conflict resolution continuum
- C. Interest-based, collaborative problem solving

IV. Mediation Theory and Practice

Trainees need a theoretical grounding to understand the process fully. Trainees should understand a full range of mediation models in order to serve the parties most effectively. Topics include:

- A. Definition of mediation
- B. Role and characteristics of mediators
- C. Theory of mediation
- D. Benefits of the mediation process
- E. Differences in third-party roles: mediators, arbitrators, and judge

- F. Approaches to negotiation
- G. Range of styles, types of mediators and mediations
- H. Impact of diversity issues
- I. Court systems and procedures

V. Mediation Process and Techniques

Trainees must develop a conceptual framework for conducting the session. This requires learning key techniques to assist in managing the session's process while encouraging a collaborative problem-solving environment.

A. Elements of the Mediation Process

1. Preliminary arrangements
2. Opening and structuring the mediation session
3. Introduction/orientation of disputants/attorneys
4. Gathering and exchanging information (venting/opening statements)
5. Issue and problem clarification
6. Generating options
7. Bargaining and negotiation
8. Agreement writing/enforceability
9. Closure

B. Techniques

1. Trust building
2. Reframing
3. Keeping on track, following agenda, managing process
4. Focusing on interests vs. positions
5. Building on partial agreements
6. Caucusing
7. Reality testing
8. Working with third parties
9. Managing difficult people or strong emotions

VI. Self-Awareness of Trainee

Trainees should understand how their personal characteristics, values or biases might influence their ability to perform effectively as a mediator. Topics include:

- A. Diversity/cultural awareness (personal biases)
- B. Language differences
- C. Conflict style
- D. How the trainee responds to conflict
- E. Personality style

VII. Ethics

Trainees must be able to support the effectiveness and credibility of the mediation process through making informed choices based on ethical principles. Topics include:

- A. Conflict of interest/appearance of impropriety
- B. Neutrality/impartiality
- C. Confidentiality
- D. Sample of standards recommended by dispute resolution professional organizations
- E. Staying in the role of mediator
- F. Violence, substance abuse, child abuse & neglect, screening, reporting and legal issues
- G. Power imbalances
- H. Liability
- I. Misuse of process
- J. Protecting the process
- K. Awareness of various organizations' ethical guidelines and grievance processes

VIII. Communication Skills

Trainees should have an opportunity to learn selected written and oral communication skills in order to foster understanding and trust, elicit relevant information, and accurately track and record key areas of agreement. Skills include:

- A. Listening
- B. Note taking
- C. Questioning
- D. Nonverbal communication (i.e., eye contact, body language)
- E. Restating and clarifying
- F. Use of neutral language
- G. Drafting the agreement
- H. Recognizing feelings and emotions of parties

IX. Professional Considerations

The trainers should promote the belief that continuing education and development is critical to achieving excellence in mediation. Trainees should be made aware of opportunities to continue to learn, to network, to find support within the field, and to establish a professional identity. Topics include:

- A. Professional organizations
- B. Networking

- C. Practicum
- D. Continuing education
- E. Aspects of establishing a practice
- F. Community service

TRAINING METHODOLOGY

Training methods should be designed to help trainees learn, integrate, and apply the knowledge and skills covered in course materials. A variety of training methods are essential in order to maintain attention levels and to address differences in learning styles. Further, if the course is presented via video conference, the full 40 classroom hours must be live and interactive.

I. Training Methods

The following are essential to all training programs:

- A. Lecture
- B. Group discussion
- C. Mediation simulations
- D. Role plays:
Trainees must participate in at least three role-plays as a mediator and two role-plays as a disputant under the supervision of a trainer or training assistant.
- E. Mediation observation:
Trainees must observe at a minimum one simulated, videotaped, or actual mediation.
- F. Other structured participatory activities:
A minimum of 50 percent of training hours shall be spent in participatory activities. Participatory activities are supervised and structured activities that require interaction among two or more people.

Trainers are also encouraged to include:

- A. Reading
- B. Written exercises
- C. Video

TRAINING ADMINISTRATION

Mediation training should be organized in a way that guarantees that trainees receive individualized attention and feedback on their skills. This is important if trainees are to leave with a realistic understanding of their abilities. The training should be administered in a way that encourages completion of the entire course and documents

only the actual hours attended. Finally, trainers should be responsive to the needs of trainees.

A. Individual Feedback:

It is important trainees receive individual feedback from experienced mediators/trainers on their performance in training practice sessions. This may be accomplished through direct trainer feedback and trainer facilitated coaching, trainee observation, or videotaping.

B. Mandatory Full Participation:

Trainees need not only be present for the 40-hour course, but also need to participate in all participatory activities and role-plays to gain a comprehensive understanding of course materials. Further, if the course is presented via video conference, the full 40 classroom hours must be live and interactive.

C. Evaluation:

Trainers will solicit course evaluation comments from trainees to help the trainer determine the effectiveness of the training and to help shape future mediation courses.

D. Documentation of Attendance:

Trainers will provide written documentation to trainees verifying trainees' 40-hour attendance or partial attendance in hours completed.

E. TMCA Standards:

Trainers will indicate in training materials and certificate of completion that their program satisfies the Texas Mediator Credentialing Association's standards for the 40-hour Basic Mediation course.

RELATED LEGISLATION

[Texas Alternative Dispute Resolution Act, Civil Practice & Remedies Code Ann., Chapter 154](#)

** Adapted from the training standards of the Texas Mediation Trainers Roundtable (TMTR), www.tmtr.org.*