

# The Supreme Court of Ohio

COMMISSION ON DISPUTE RESOLUTION & DISPUTE RESOLUTION SECTION

## Training Program Standards - Fundamentals of Mediation

The Fundamentals of Mediation Training Program Standards (hereafter “Fundamentals Standards”) have been approved by the Supreme Court of Ohio’s Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

### I. Purpose

To set forth the standards for the fundamentals of mediation training that mediators are required to take pursuant to Rule 16.23(A)(1) of the Rules of Superintendence for the Courts of Ohio.

*(Training program sponsors may apply for Rule 16 training program approval by submitting the “Application for Training Program Approval” located on the [Dispute Resolution Section’s website](#).)*

### II. General Requirements

A fundamentals of mediation training program shall include a minimum of sixteen (16) training hours, not including welcoming remarks, introduction, breaks and closing remarks. This training requirement may be satisfied by at least 16 hours of interactive training or by participants completing the 2.25 hour Fundamentals of Mediation online module (eLearning) and the 1.0 hour Implicit Bias for Court Staff and Affiliates online module (Implicit Bias eLearning), and at least 13 hours of interactive training. Interactive training may be offered in-person or on a virtual platform in which participants are on camera and actively participate in role plays, exercises, and other activities.

Course materials (written or electronic) shall be distributed to all participants prior to the training program. Nothing in this provision precludes faculty from sharing activities, exercises, and supplemental materials throughout the course, so long as such materials meet the Fundamentals Standards set forth herein and are approved in advance by the Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

### III. Faculty Qualifications

Faculty shall be qualified by education and training to conduct the program effectively in accordance with the standards set forth herein. A training program sponsor shall have an ongoing duty to report any activity, criminal or otherwise, that would adversely affect the faculty’s ability to perform the functions of faculty delivering a training program.

#### **IV. Training Program Methodology**

The following techniques shall be used:

- A. Mediation Role Play – at least four (4) hours must be devoted to supervised role play. It is strongly recommended, but not required, that the role play be conducted in small groups of 3-4 participants per role play coach; and
- B. A combination of at least three (3) of the following techniques:
  - 1. Lecture
  - 2. Group discussion
  - 3. Written exercises/activities (e.g., drafting mediation documents, such as confidentiality agreements, a memorandum of understanding, a mediator's introductory remarks, agreements to mediate, etc.)
  - 4. Mediation demonstration (live or video)

#### **V. Training Program, Minimum Requirements**

The following categories shall be addressed for the minimum time specified for each subject. A non-exhaustive list of examples of topics that meet the requirement are listed in each category. For the purpose of calculating the training program minimum requirements, the eLearning course provides 60 minutes of instruction on skill development (45 minutes of instruction on the stage mediation model and 15 minutes of instruction on mediation styles), 60 minutes of instruction on statutes, rules and ethics, and 15 minutes of instruction on core values. The Implicit Bias eLearning satisfies the training requirements for Implicit Bias and Appreciating Differences.

- A. Core Values of Mediation approved by the Dispute Resolution Section based on standards established by the Commission on Dispute Resolution (minimum 30 minutes or minimum of 15 minutes if using eLearning)
  - 1. Self-determination
  - 2. Impartiality
  - 3. Neutrality
  - 4. Fairness of Process
  - 5. Flexibility and Informality
  - 6. Competence of Mediator
  - 7. Confidentiality/Privilege
  - 8. Voluntary Resolution
  - 9. Cooperation
  - 10. No Conflicts of Interest

B. Skill Development (minimum of 480 minutes or minimum of 420 minutes if using eLearning)

1. The Stage Mediation Model

Within this structure, the mediator must be able to explain each stage of mediation, including the role of the mediator in each stage, and the core values that provide a foundation for mediation. A sample stage model is as follows:

- Stage One: Pre-Mediation. Includes case development and preparation, initial safety and screening.
- Stage Two: Introduction. Includes the mediator's opening remarks, building rapport, explaining the process and roles, establishing ground rules, and answering questions.
- Stage Three: Parties explain the dispute. Includes sharing perspectives and information, listening to the other party's perspectives as they relate to the issues and interests to be met in the mediation. Mediator facilitates discussion and summarizes.
- Stage Four: Identifying, clarifying issues and interests. Mediator uses framing and reframing to identify issues and interests to be discussed in the mediation and prepare an agenda.
- Stage Five: Generating and Selecting Solutions. Mediator guides parties through a discussion of possible solutions, consideration of these possible solutions and building consensus.
- Stage Six: Concluding Mediation. Includes documenting any agreement, thanking the participants, discussing next steps and completing any required outcome reports.

2. Mediation Styles

- a. Facilitative
- b. Evaluative and the use of evaluation in mediation
- c. Transformative

3. Co-Mediation

4. Techniques and strategies for an effective mediation which may include:

- a. Use demonstrative tools such as flip charts, graphics
- b. Use experts
- c. Caucus
- d. Change mediation styles
- e. Strategic questions

C. Communication (minimum of 60 minutes)

1. What is Effective Communication

2. Strategies and techniques for effective communication

- a. Active listening (both for content and feelings)
- b. Questions (open-ended, clarifying closed-ended)
- c. Framing and reframing
- d. Summarizing

- e. Checking perceptions
- f. Inviting discussion
- g. Dealing with strong emotions

D. Conflict Theory (minimum of 15 minutes)

- 1. The Conflict Triangle – people, process and problem
- 2. Conflict styles – adapted from the Thomas-Kilmann Model
  - Competing
  - Avoiding
  - Accommodating
  - Compromising
  - Collaborating
- 3. Causes and characteristics of conflict

E. Negotiation & Power (minimum of 30 minutes)

- 1. Power sources (position, task, personal, knowledge, relationship)
- 2. Interest based negotiation; positions vs. interests
- 3. Parties' needs and interests
  - a. Emotional/psychological needs
  - b. Substantive needs
  - c. Procedural needs
- 4. Barriers to negotiation

F. Screening & Safety (minimum of 30 minutes)

- 1. Introduce Screening, when to use it and why it is needed
- 2. Screening methods and techniques
- 3. Structuring the mediation process based on information obtained in screening
- 4. Terminating mediation safely

G. Appreciating Differences (minimum of 30 minutes if not using Implicit Bias eLearning, optional if using Implicit Bias eLearning)

- 1. Communication styles (formality, clarity, intensity, certainty)
- 2. Habits and practices (times, space, eye contact, physical contact, food, negotiating styles, decision-making styles, hierarchies, parenting styles)
- 3. Transformation Model - adapted from the Embrace Consulting LLC Model
  - Avoidance
  - Tolerance
  - Acceptance
  - Appreciation
- 4. How can differences impact mediation and how can mediator avoid negative impacts related to differences?

H. Implicit Bias (minimum of 30 minutes if not using Implicit Bias eLearning, optional if using Implicit Bias eLearning)

- 1. What is implicit bias?
- 2. Effects implicit bias may have on the mediation participants and process

3. Techniques for managing implicit bias
- I. Caucus & Impasse (minimum of 30 minutes)
    1. Benefits and challenges of caucus
    2. When and how to caucus
    3. Techniques to address impasse
      - a. BATNA/WATNA
      - b. Recognize and identify specific barriers
      - c. Encourage creativity
      - d. Change mediation styles
      - e. Consider a partial settlement
      - f. Consider other dispute resolution processes
  - J. Statutes, Rules, Standards & Ethics (minimum of 90 minutes or minimum of 45 minutes if using eLearning)
    1. Uniform Mediation Act
    2. Rules of Superintendence for the Courts of Ohio
      - a. Rule 16 Mediation - Parenting Coordination and Neutral Evaluation
      - b. Rule 80 Ancillary Court Services, including Foreign Language Interpreters
      - c. Local court rules
    3. Standards and Ethics
      - a. Model Standards of Conduct for Mediators
      - b. Unauthorized Practice of Law - legal information vs. legal advice
  - K. Additional Time on Topics Listed Above or Other Mediation Techniques (90 minutes)
    1. Faculty may spend the remaining 90 minutes of the training time providing additional instruction, exercises, or activities in the categories listed above or on other mediation techniques or strategies.
    2. Faculty shall include this additional 90 minutes in their training agenda to ensure that the interactive training program includes a minimum of 16 training hours if the Fundamentals of Mediation online module is not required or a minimum of 13 training hours if the Fundamentals of Mediation and Implicit Bias online module are required.

## **VI. Approval**

Any mediation training program approved by the Supreme Court of Ohio Dispute Resolution Section as meeting these standards is approved for a period of two calendar years. The training program sponsor, however, shall submit a listing of scheduled courses at least 45 days before each course, giving the date, time, location, and cost, if applicable, of the training program. Any material change in the course (such as a change in a primary faculty member or in the curriculum) requires a new application to the Supreme Court of Ohio Dispute Resolution Section.

## **VII. Revocation of Approval**

The Supreme Court of Ohio Dispute Resolution Section has the right to audit approved training programs during the period for which the training program has been approved. Such an audit may include, but is not limited to: attendance of any part of the course, examination of evaluation forms, examination of curriculum and written materials, and interviewing participants. Approval of programs that are determined to no longer comply with these standards and/or the *“Obligations and Responsibilities for Sponsors”* outlined in the *“Instructions, Obligations, and Responsibilities for the Approval of Required Dispute Resolution Trainings under the Supreme Court of Ohio Rules of Superintendence for the Courts of Ohio,”* located on the Dispute Resolution Section web site, will be revoked.