

TEXAS MEDIATION TRAINERS ROUNDTABLE 40-HOUR BASIC MEDIATION TRAINING STANDARDS

Revised and Adopted on November 3, 2003

BACKGROUND

In 1992 and 1993 a group of Texas mediation trainers conducted a series of discussions to examine standards for the 40-hour basic mediation training. This group formed the Texas Mediation Trainers Roundtable (TMTR) and finalized the original standards for the 40-hour Basic Mediation course. TMTR revised these standards in 2003.

These standards are intended to insure the quality of mediation training programs throughout the state and to foster productive dialogue among mediation trainers. They have been developed in a way that recognizes diversity in the mediation field, including diversity of approaches to training and to mediation. The Texas Mediator Credentialing Association (TMCA), who promotes quality mediation throughout Texas, has adopted these 40-hour Basic Mediation standards.

TRAINING CONTENT

The nine minimum areas of information that need to be covered in a basic mediation 40hour 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.
 - A. Topics
 1. Definitions, types of, sources of, and responses to conflict
 2. Conflict resolution continuum
 3. 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.
 - A. Topics
 1. Definition of mediation
 2. Role and characteristics of mediators
 3. Theory of mediation
 4. Benefits of the mediation process
 5. Differences in third-party roles: mediators, arbitrators, and judges
 6. Approaches to negotiation
 7. Range of styles, types of mediators and mediations
 8. Impact of diversity issues

9. 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. Topics

1. Elements of the Mediation Process

- a. Preliminary arrangements
- b. Opening and structuring the mediation session
- c. Introduction/orientation of disputants/attorneys
- d. Gathering and exchanging information (venting/opening statements)
- e. Issue and problem clarification
- f. Generating options
- g. Bargaining and negotiation
- h. Agreement writing/enforceability
- i. Closure

2. Techniques

- a. Trust building
- b. Reframing
- c. Keeping on track, following agenda, managing process
- d. Focusing on interests vs. positions
- e. Building on partial agreements
- f. Caucusing
- g. Reality testing
- h. Working with third parties
- i. 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.

A. Topics

1. Diversity/cultural awareness (personal biases)
2. Language differences
3. Conflict style
4. How the trainee responds to conflict
5. 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.

A. Topics

1. Conflict of interest/appearance of impropriety
2. Neutrality/impartiality
3. Confidentiality
4. Sample of standards recommended by dispute resolution professional organizations
5. Staying in the role of mediator
6. Violence, substance abuse, child abuse & neglect, screening, reporting and legal issues
7. Power imbalances
8. Liability
9. Misuse of process

10. Protecting the process
11. 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.

A. Skills

1. Listening
2. Note taking
3. Questioning
4. Nonverbal communication (i.e., eye contact, body language)
5. Restating and clarifying
6. Use of neutral language
7. Drafting the agreement
8. 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.

A. Topics

1. Professional organizations
2. Networking
3. Practicum
4. Continuing education
5. Aspects of establishing a practice
6. 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.

I. **Training Methods**

The following are essential to all training programs:

- A. Lecture
- B. Group discussion
- C. Mediation simulations
- D. Role plays
- E. Other structured participatory activities

Trainers are also encouraged to include:

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

- II. **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.
- III. **Mediation Observation**
Trainees must observe at a minimum one simulated, videotaped, or actual mediation.
- IV. **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.

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.

- I. **Individual Feedback**
It is important that 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.
- II. **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.
- III. **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.
- IV. **Documentation of Attendance**
Trainers will provide written documentation to trainees verifying trainees' 40-hour attendance or partial attendance in hours completed.
- V. **TMTR Standards**
Trainers will indicate in training materials and certificate of completion that their program satisfies the Texas Mediation Trainers Roundtable's standards for the 40-hour Basic Mediation course.

LEGISLATION

- [Texas Alternative Dispute Resolution Act, Civ. Prac. & Rem. Code Ann., Chapter 154](#)
- [The Negotiated Rulemaking Act, Tex Gov't Code, Chapter 2008](#)
- [The Governmental Dispute Resolution Act, Tex Gov't Code, Chapter 2009](#)