

TEXAS-SPECIFIC MEDIATOR TRAINING SHORT-COURSE

Course Description

This four-hour course covers the 40-Hour Basic Mediation Training curriculum established by the Texas Mediation Trainers Roundtable (TMTR) that deals with Texas-specific ADR law, Standards of Practice, Codes of Ethics and Professional Considerations.

If you completed your basic mediation training in a state other than Texas and such training covers all the topics in the TMTR-approved 40-Hour Basic Mediation Training curriculum other than the Texas-specific components, completion of this short-course will meet the basic mediation training requirements of the Texas Mediator Credentialing Association (TMCA) and the mediator training requirements pursuant to Chapter 154.052 (a) Texas Civil Practice and Remedies Code. This short course also serves as a refresher for experienced Texas mediators and those who may be seeking additional continuing education hours.

Components of the short-course:

- Review of the Texas ADR Act's "Qualifications of Impartial Third Parties"
- Overview of ADR legislation in Texas
- Detailed review of the ethical guidelines for mediators in Texas
- Professional considerations

Texas-Specific Short Course
of the
Basic 40-Hour Mediation Training

Course Content

1. Objective of the Course
 - a. Review of the qualifications for Impartial Third Parties under the Texas ADR Act
 - b. Overview of ADR legislation in Texas
 - c. Detailed review of the Ethical Guidelines for Mediators in Texas
 - d. Professional considerations
2. Standards for the Basic 40-Hour Mediation Training in Texas
 - a. Statutory Description
 - b. Texas Mediation Trainers Roundtable Standards
3. Alternative Dispute Resolution (ADR) Legislation in Texas
 - a. ADR Related Statutes in Texas
 - i. Alternative Dispute Resolution System Established by Counties (Tex. Civ. Prac. & Rem. Code, Chapter 152)
 - ii. Alternative Dispute Resolution Procedures (Tex. Civ. Prac. & Rem. Code, Chapter 154)
 - iii. Settlement Weeks (Tex. Civ. Prac. & Rem. Code, Chapter 155)
 - iv. Family Code – Mediation Procedures (Tex. Fam. Code, Sec. 6.602)
 - v. Victim-Offender Mediation (Tex. Code Crim. Proc., Art. 56.13)
 - b. The Texas ADR Act (Tex. Civ. Prac. & Rem. Code, Chapter 154)
 - i. § 154.001. Definitions
 - ii. § 154.002. Policy
 - iii. § 154.003. Responsibility of Courts and Court Administrators
 - iv. § 154.021. Referral of Pending Disputes for Alternative Dispute Resolution Procedure
 - v. § 154.022. Notification and Objection
 - vi. § 154.023. Mediation
 - vii. § 154.024. Mini-Trial
 - viii. § 154.025. Moderated Settlement Conference
 - ix. § 154.026. Summary Jury Trial
 - x. § 154.027. Arbitration

- xi. § 154.051. Appointment of Impartial Third Parties
- xii. § 154.052. Qualifications of Impartial Third Party
- xiii. § 154.053. Standards and Duties of Impartial Third Parties
- xiv. § 154.054. Compensation of Impartial Third Parties
- xv. § 154.055. Qualified Immunity of Impartial Third Parties
- xvi. § 154.071. Effects of Written Settlement Agreement
- xvii. § 154.073. Confidentiality of Certain Records and Communications

- c. The Texas Mediation Trainers Roundtable (TMTR) conceptual mediation framework
 - i. Pre-mediation Preparation
 - ii. Mediator's Introduction (Opening Statement)
 - iii. Parties' Opening Statements
 - iv. Two-Way Exchange (Communication)
 - v. Options and Negotiation
 - vi. Agreement
 - vii. Closing

4. Ethical Principles

- a. The Importance of Ethical Standards for Mediators
 - i. The Community Served
 - ii. The Profession
 - iii. The Mediator
- b. An Overview of Values, Morals, and Ethics
- c. Mediator Ethical Guidelines and Standards in the United States
 - i. AAA/ABA/ACR Standards of Conduct for Mediators
 - ii. Association of Attorney-Mediators Ethical Standards
 - iii. The National Conference of Commissioners on Uniform State Laws – Uniform Mediation Act
 - iv. Texas Association of Mediators
 - v. State Bar of Texas ADR Section Ethical Guidelines for Mediators
 - vi. Supreme Court of the State of Texas Ethical Guidelines for Mediators
 - 1. Mediation Defined
 - 2. Mediator Conduct
 - 3. Mediation Costs
 - 4. Disclosure of Possible Conflicts
 - 5. Mediator Qualifications
 - 6. The Mediation Process
 - 7. Convening the Mediation
 - 8. Confidentiality
 - 9. Impartiality
 - 10. Disclosure and Exchange of Information
 - 11. Professional Advice

- 12. No Judicial Action Taken
- 13. Termination of Mediation Session
- 14. Agreements in Writing
- 15. Mediator's Relationship with the Judiciary
- vii. Texas Mediator Credentialing Association

d. Ethical Decision-Making

e. Ethical Exercises

f. Reporting Abuse, Neglect, and Exploitation (Tex. Fam. Code, Sect. 261.101)

- i. Duty to Report
- ii. Definitions
 - 1. Abuse
 - 2. Neglect of a Child
 - 3. Neglect of an Elderly Person
 - 4. Exploitation of an Elderly Person
- iii. Methods of Reporting

5. Professional Considerations

a. ADR Organizations

- i. National
 - 1. The Association of Attorney-Mediators (AAM)
 - 2. Association for Conflict Resolution (ACR)
 - 3. American Bar Association Section of Dispute Resolution
- ii. Texas
 - 1. State Bar of Texas Section of Alternative Dispute Resolution
 - 2. Texas Association of Mediators (TAM)
 - 3. Texas Mediator Credentialing Association (TMCA)
 - 4. Texas Mediation Trainers Roundtable (TMTR)
 - 5. Texas Attorney Mediator Coalition (TAMC)
- iii. Local
 - 1. Austin Association of Mediators
 - 2. ACR – Houston
 - 3. Dispute Resolution Centers
 - 4. Dallas Bar Association, ADR Section

b. Dispute Resolution Center Guidelines

- i. Intake Process and Forms
- ii. Mediation Logistics, Procedures, and Forms
- iii. Mediator Qualifications and Requirements

Delivery

With the advancement in technology in education, the Texas Mediators Training Roundtable considered the issues surrounding online delivery of the required mediation trainings in the State of Texas. Recognizing the importance of role play, behavioral modeling, and mentoring in learning mediation skills, the TMTR promulgated a delivery guideline that required that at least one-half of the designated hours for each respective training be in a residential or face-to-face environment.

In recent years, courts and mediation associations in the State of Texas have been asked to consider whether trainings from other jurisdictions would satisfy the training standards promulgated by TMTR for the Basic 40-Hour Training Course. The TMTR decided to accept those trainings that closely tracked the Texas standards, provided that the individuals successfully complete a 4-hour, “Texas-specific” course covering Texas law and ethical guidelines. Only the Central Texas Dispute Resolution Center moved forward to develop and provide that additional training. As the demand for the training increases, questions have arisen about the appropriate delivery options for trainers wanting to provide the Texas-specific course.

Delivery should include the following elements:

1. That trainers utilize the course outline approved by the TMTR in teaching the 4-hour, Texas-specific training.
2. That the course feature interactive exercises, specifically in regard to the presentation and study of the Ethical Guidelines for Mediators.
3. That, to ensure this interactions, the course be offered either:
 - a. In a residential, face-to-face environment; or
 - b. In a suitable distance learning method, such as live webinar, online training with a live-conferencing element for the interactive portion of the training, or asynchronous online training featuring robust, interactive training methodology.