ABSTRACT

In the past ten years, the field of Mediation has expanded and become an integral part of our judicial systems, business communities and government agencies in the United States. Professional mediators felt a need to develop curriculum standards and trainer requirements because far too many people declare themselves to be mediators with no formal training or supervision. There have even been instances where mediator trainers are leading mediation workshops with no formal mediation experience.

In the State of Oregon the Courts and the Oregon Mediation Association have taken the lead to develop training criteria and trainer requirements that have been adopted in Chief Justice Order No 05-028. The training to become a Court or Government mediator must meet curriculum standards and be taught by an instructor who satisfies the requirements to be a Mediation trainer.

This presentation examines the specific curriculum and trainer requirements to mediate for the Courts or a Government agency in the State of Oregon and the curriculum created by the author to meet these requirements. There are multiple ways to teach Mediation and many approaches to mediating. Participants will compare different curriculum models and consider regional and cultural influences.
Basic Mediation Curriculum
Oregon Judicial Department Court-Connected Mediator Qualifications Rules
Chief Justice Order No. 05-028

Be at least 36 hours

At least 6 hours participation by each trainee in role plays

Required Instruction
1. Conflict resolution and mediation theory
2. Preparation for mediation
3. Create a safe and comfortable environment
4. Facilitate effective communication for all participants
5. Use techniques to problem solve and seek agreements
6. Conduct the mediation in a fair and impartial manner
7. Understand mediator confidentiality and ethical standards
8. Conclude the mediation and draft agreements

Court System Training (For Court Connected Mediators) – 6 hours
Subject Areas
1. Basic legal vocabulary
2. How to read a court file
3. Confidentiality and disclosure
4. Availability of jury trails
5. Burden of proof
6. Basic trial procedure
7. Effect of mediated agreement on a case: finality, appeal rights, remedies and enforceability

Information on administrative and dispute resolution processes

Information of the process that will be used to resolve the dispute if no agreement is reached (adjudication or arbitration, jury trial and appeal)

Avoidance of the unauthorized practice of law

For mediators working in the context other than small claims – 2 additional hours
1. Role of litigants’ attorneys in the mediation process
2. Attorney client privileges
3. Understanding the State Bar disciplinary rules
4. Basic rules of evidence
5. Basic rules of contract and tort law
Experience requirements for a Civil Mediator

1. Observed three actual mediations
2. Participated as a mediator or co-mediator in at least three cases that have been or will be filed in court
3. Mediating to the satisfaction of a civil mediation supervisor

Requirements to be a Basic Mediation Trainer
Oregon Judicial Department Court-Connected Mediator Qualifications Rules
Chief Justice Order No. 05-028

Requirements to be a lead trainer for the Basic Mediation Curriculum

Completed the Basic Mediation Curriculum
Completed the Court Systems Training
Completed at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of a general civil mediator: and either
Served as trainer or assistant trainer for the Basic Mediation curriculum at least three times
Completed 12 continuing education hours every 2 years

Belsky, M, (2007) Training requirements to be a mediation trainer in Oregon, Australasian Dispute Resolution Journal, vol.18, number 1, Pyrmont, NSW, Australia
Ojd.adr@ojd.state.or.us

Mediation and Conflict Management
40-Hour Training
Instructor: Dr. Michael Belsky, Ed.D., LPC
Coaches: Five coaches

Day 1
8:00 - noon
Dilemma Exercise
Introductions and Seminar Overview
Dispute Resolution Theory and Perspectives
Forms of Dispute Resolution
Definitions & Conflict Theory
Fundamental Principles

Negotiation: Theory and Process
Cooperation vs. Competition
Zero-Sum Bargaining
Principles in Collaborative Negotiations
Interests vs. Positions
Negotiation Strategies
Creating Options for Mutual Gain
Using Objective Criteria and BATNA

1:00 - 5:00

Communication Skills and Techniques
Active Listening Exercise
Communication Skills
Reframing and Use of Hypotheticals
Summarizing, Grouping and Ordering
Questioning, Confronting and Silence
Generalization and Normalization
Mutualization, Anchoring and Role Reversal
Demonstrate (Barking Dog)
Role Play: Practice Communication Skills (Tree Dispute)

Day 2

8:00 - noon

Communication Skills and Techniques
Mediation Is It For You? (Video)
Acknowledge the Point and Dismiss and Redirect
Agreement in Principle/Building Blocks (“TAs”)
Creating Dissonance and Shifting the Focus
Dispute Resolution Mythology
Benefits of Mediation
Mediator Responsibilities
Appropriateness for Mediation
Guidelines for Mediating
Non-verbal and Rapport Development
Demonstrate and Role Play (Roof Problem or Noise Conflict)

1:00 – 5:00

Mediation Process
Agreement to Mediate, Confidentiality & Reporting
Communicating with Attorneys and Others
Mediation Process
Ground Rules and Safety Concerns
Impartiality and Neutrality
Arranging the Meeting Space
Role Play Instructions & Guidelines for Co-Mediators
Telephone Interview Skills –Intake and Screening
Telephone Interview
 Demonstrate and Role Play
Debrief and Evaluate
Names (Video) Discuss
Day 3
8:00 - noon\hspace{1em} Mediation Process
Balancing Power & Building Trust
Responding To Uncooperative Behavior
Mediator Opening Statement & Check List
Demonstrate and Role Play an Opening Statement
Debrief and Evaluate

1.00 - 5:00\hspace{1em} Mediation Process
Cross-cultural & Gender Awareness
Conflict Grid
Demonstrate and Role Play
Smoking in the Work Place or Wedding Flowers
(Fact Finding)
Debrief and Evaluate
Judge ……, Jackson County Courts (ADR in the Courts)

Day 4
8:00 - noon\hspace{1em} The Mediation Process
Controversial Issues in Mediation
Caucusing
Demonstrate and Role Play Documenting Agreements
Debrief and Evaluate
Conflict Between Supervisor/ Salesperson or Car Repairs

1.00 - 5:00\hspace{1em} Mediation Topics
Resolving Impasses
Assessing Options for Settlement
Document Agreements
Role Play & Document
Real Estate Transaction, or Property Line
Debrief and Evaluate
Mediation Works – Community Dispute Resolution Program
Opportunities for training and mediating

Day 5
8:00 - noon\hspace{1em} Mediation Topics
The Transformative Model
Power, Control and Abuse
Alcohol and Drug Abuse
Child Abuse Reporting Form
Role Play & Document Apartment Complex Dispute
or Noise Conflict with Neighbors
Debrief and Evaluate
Restorative Justice Program
Victim Offender Mediation (Video)
1:00 - 5:00

**Mediation Ethics and Practice**

Progressive Role Play with class
Debrief and Evaluate
Court Systems and Attorney Review
OMA Core Standards of Mediation Practice
Ethical Issues and Legal Issues Regarding Best Practice
Common Mistakes/Suing Mediators
Statutory and Regulatory Materials
Careers in Dispute Resolution
Confidentiality
Court-Connected Mediator Qualifications
Community Dispute Resolution Center’s in Oregon
www.crinfo.org & www.mediate.com
Professional Organizations - Association for Conflict Resolution, Oregon Mediation Association), Association of Family and Conciliation Courts, Asia Pacific Mediation Forum, World Mediation Forum, American Bar Association, etc
Evaluation Form
Certificates of Completion

