

**Teaching Mediation: Judicial Standards  
for Curriculum and Instructor Requirements**

**Michael Belsky, Ed.D., LPC  
Mediation and Conflict Management Program  
College of Arts and Sciences  
Southern Oregon University  
Ashland, Oregon 97520  
mbelsky@jeffnet.org**

**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 trials
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, Pymont, NSW, Australia

[Ojd.adr@ojd.state.or.us](mailto: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**

**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**

**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**

**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**

**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**

**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](http://www.crinfo.org) & [www.mediate.com](http://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

**TEXTS:** McCorkle & Reese, (2005) Mediation Theory and Practice. Boston: Pearson Education.

Belsky, Michael, (2008) Introduction to Mediation and Conflict Management. A Reader  
Southern Oregon University

Kolb, Deborah M. & Assoc. (Eds.), (1994) When Talk Works: Profiles of Mediators. San  
Francisco: Jossey Bass.