

Mediation Training Institute at Eckerd College - Competencies for Mediators

	Description	Competencies	Demonstrated
Knowledge of Ethics/Codes of Conduct			
Voluntariness	Ensures parties willingness to participate in mediation voluntarily.	A mediator should consistently explain the voluntary nature of mediation in both the agenda and the right to terminate the mediation.	Day 1: Necessary Knowledge Day 4: Mediation agreements Day 6: Mediator professionalism
Self-Determination	Party autonomy is one of the guiding principles of mediation. Self-determination is the act of coming to a voluntary, uncoerced decision to make free and informed choices as to process and outcome of the mediation.	Supporting and encouraging the parties in a mediation to make their own decisions about the resolution of the dispute rather than imposing the ideas of the mediator or others is fundamental to the process. The mediator should prevent one party from dominating the other parties in the mediation in a manner that prevents them from being able to make their own decisions.	Day 4: Advanced mediation: Perspective Taking, Positions and Interests, Power and Intensity Imbalance Day 6: Mediator professionalism
Confidentiality in the process	A mediator will maintain the confidentiality of all information obtained by the mediator in mediation, unless otherwise agreed to the parties and limitations explained.	The mediator clearly explains and maintains confidentiality of the process, including explaining limitations. A mediator promotes understanding among the parties of the extent to which the parties will maintain confidentiality they obtain in mediation.	Day 1: Necessary Knowledge Day 4: Mediation agreements Day 6: Mediator professionalism
Impartiality/Neutrality	Impartiality is the ability to not take sides or positions and ensure an unbiased presence in mediation.	The mediator demonstrates equal and fair treatment to all participants consistently throughout the process. The mediator does not align with either party. He or she maintains neutrality in both the process and conduct.	Day 1: Necessary Knowledge Day 4: Mediation agreements Day 6: Mediator professionalism
Conflicts of Interest	Mediators must avoid serving in cases where they have a direct personal, professional, or financial interest in the outcome of the dispute.	The mediator conducts personal and conflict of interest checks for all stakeholders for perceived and potential biases and conflict. The mediator should err on the side of disclosure even where the mediator's interest is indirect.	Day 1: Necessary Knowledge Day 4: Mediation agreements Day 6: Mediator professionalism

Personal biases and beliefs of the Mediator	Self-reflection about own personal biases and beliefs that may negatively impact mediation.	The mediator should be aware and carefully manage his or her personal biases. If these may impact the process, the Mediator should disclose them to the participants and may offer recusal.	Day 1: Necessary Knowledge Day 4: Mediation agreements Day 6: Mediator professionalism
Competence	Mediators have a duty to know the limits of their ability; to avoid taking on assignments that they are not equipped to handle; and to communicate with the parties about their background and experience.	Training, experience in mediation, skills, cultural understanding and other qualities are necessary for mediator competence. If there is a lack of competence, it is the duty of the mediator to turn down the engagement.	Day 1: Necessary Knowledge Day 4: Mediation agreements Day 6: Mediator professionalism
Quality of the process	A mediator will conduct a mediation in a manner that promotes diligence, timeliness, safety, presence of the appropriate participants, procedural fairness, party competency and respect among all participants.	A mediator promotes honesty and candor between and among all participants.	Day 1: Necessary Knowledge Day 4: Mediation agreements Day 6: Mediator professionalism
Advancement of Mediation	A mediator should act in a manner that advances the practice of mediation and ensure continuing self/professional development.	A mediator fosters diversity within the field of mediation, strives to make mediation accessible to those who elect to use it, participates in research when given the opportunity, participates in outreach and education efforts and assists newer mediators through training, mentoring, and networking. A mediator should demonstrate respect for differing points of view in the field.	Day 6: Mediator professionalism, future of mediation
Knowledge of Mediation Advocacy			
Universal structure of conflict	An overview of conflict and the structure for resolution. Conflict is defined.	Discussion of complex and simple structure conflicts and how each may be resolved.	Day 1: Conflict Resolution Theory, Necessary Knowledge Day 1 and 2: Conflict Dynamics Profile
Nature of conflict	Evolutionary aspects of conflict and how humans react to conflict situations is explored. Theory and the model for conducting mediations is previewed.	Path of Conflict is discussed including cognitive and affective behaviors that fuel the conflict. Hot buttons and fight, flight responses are examined.	Day 1: Conflict Resolution Theory, Necessary Knowledge Day 1 and 2: Conflict Dynamics Profile
ADR mechanisms	Provide participants with an overview of litigation and the necessity of ADR, as	Instructors discuss the differences between litigation and alternative methods of dispute	Day 1: Conflict Resolution Theory

	well as the distinction between the different forms of ADR.	resolution. Examination of the cost, time, relationships, control, confidentiality, procedure, focus, and emotional results are all examined.	Necessary knowledge, Cost of Conflict Calculator
Mediation principles	An introduction to the structure of mediation, basic knowledge of the stages of mediation and the advantages of mediation.	Mediators must be able to clearly present the case for/against mediation to prospective clients. They should be able to clearly describe the advantages of mediation and when it is appropriate to use.	Day 1: Conflict Resolution Theory, Necessary Knowledge Day 2: Third Party Resolution
Role of legal counsel and representatives	Discussion of each of the multifaceted roles and relationships that come into play in the mediation process. These roles include that of the attorney, client representative, the client, and the mediator in context with mediation.	Mediators should understand the nature of representation and assist the lawyer to advocate and advise their client within the realm of mediation not litigation. Being able to explain the mediation process and convey the benefits helps prepare all parties for mediation. Discussion of the mediator as a process leader is paramount to success.	Day 1: Different Ways of Dealing with Conflict Day 3: Working with Representation
Types and styles of mediation	Appreciation of the different styles of mediation and the appropriateness of each in its use. The field of mediation needs to be clear on what it is offering to enhance credibility and usefulness of mediation.	Participants will learn about the differing styles of mediation and what each entail. Facilitative, evaluative and transformative mediation are all discussed (pros and cons of each).	Day 1: Types of mediation and styles, Workplace Mediation and Benefits Day 2: Third Party Resolution Day 3: Advance Mediation Skills Day 5: Mediation Practice
Experience of the Mediation Process			
Decide to mediate	Mediators must make an informed decision if mediation is right for the parties and if they are the right mediator for the case.	Mediators should be able to filter when to use and when to not use mediation. The participants are exposed to the cost of conflict calculator and the strategy survey designed by Mediation Training Institute to use as filters. Options for mediation are discussed as well as roles of each party in mediation.	Day 1: Different ways of dealing with conflict Day 2: Decide to mediate, video, when to use third party mediation Day 3: Agreements to Mediate
Hold preliminary meetings	Mediators prepare the parties for mediation (including counsel/representation).	The mediator must develop and pursue a direction that helps the parties move toward agreement. It is important to distinguish relevant information from clutter, identify each party's essential requirements of agreement, "coach"	Day 2: Preliminary meetings, role play, Mediation Map introduction, preparing issue statements group exercise, video Day 3: Role play

		the parties' negotiation process, and recognize parties' relative flexibility.	Day 4: Role play
Protect the context	Preparation is key to protecting the meeting. Planning the time and place environment for the dialog is critical.	Participants discuss their own unique situations for hosting a mediation in terms of location, seating, time of day/week, etc.	Day 2: Group exercise, video
Hosting the meeting	The primary tasks a mediator performs are discussed, role modeled through demonstration and video, as well as performed by the participants.	Mediators know the cues and responses to move parties forward to resolution. Tasks are behaviorally concrete but may be challenging to perform because they feel unnatural. Both the art and science of moving people to reconciliation are important. Caucus (outside discussion) and in-room mini caucus are part of the curriculum for competence.	Day 2: video, Role play Day 4/5: Role play
Mediation agreements/closure and follow-up	Mediation agreements are a celebration of the process and the product of a successful mediation. It is not always the case that a successful mediation entails a formal agreement (whether provisional or formal). The mediation agreement is fundamentally different in content, style and language from a legal agreement as the mediator isn't a lawyer for any of the parties so the mediation agreement should be the parties' own agreement, in their own words.	A mediator must recognize that the mediation agreement stems from the process itself. The agreement is created by the parties themselves as a result of their specific conflict and the mediation process as they experienced it. The crafting of a mediation agreement is an acquired skill, sharpened and improved by continued involvement in the work. Following a template vs. a form agreement is helpful. Mediators need to include the who, what, when, where and for how long in future focused language.	Day 2: video, role play Day 4/5 Role play
Knowledge of the Skills of Mediators			
Reframing	A persistent perception, repeatedly expressed, that apparently is being used to justify a pattern of wrong reflexes, such as withdrawal from constructive dialogue or stubborn insistence on an unworkable solution.	A mediator may interrupt the dialogue to offer a reframe of the counterproductive perception.	Day 3: Nudges: video, group exercise, Reframing worksheet Day 4: Role play
Uncovering Interests - Common interests/Listening	Parties are locked in a pattern of positional demands, seemingly unaware of their own underlying interests/needs	Interrupt the dialogue to briefly interview either/ both individuals to explore underlying interests and, perhaps, to discover shared/common	Day 3: Nudges: video, group exercise, <i>Art of Asking Good Questions</i>

	that make the other’s acceptance of their demands appear necessary for solution.	interests. Care should be taken to preserve the perception of impartiality. The mediator probes by using open ended questions to explore needs and concerns and focus on points of common interest. Listening carefully to the party’s tone helps to assess, reframe and then reflect their emotion or anger back to them.	Day 4: Role play
Identifying BATNA	Either or both parties are engaged in fiercely defensive interactions, issuing ultimatums or threats that appear to be bluffs, unaware that if the bluff fails, they are left with very poor fallback options.	Interrupt the dialogue to briefly interview either/both individuals to explore their ideas and assumptions about their best, worst, and most likely alternatives, should the mediation fail. Conduct an effective discussion of each party’s Plan B (Best Alternative to NO agreement) in the preliminary meetings.	Day 3: Nudges: video, role play with partner Day 4: Role play
Informing and reminding	Either or both parties appear to be unfamiliar with, or have forgotten, organizational policies, procedures, requirements, or other factual information. Such information may include that task boundary of the mediation (the problem to be solved), role boundaries during mediation (the role of the mediator to facilitate, not problem solve), and time boundaries (such as the time set aside for this mediation).	Interrupt the dialogue to briefly inform/remind them of the facts that they seem to be unaware of. Explain as necessary to ensure that they understand and accept the factual nature of the information you supply—you are simply the “messenger.”	Day 3: Nudges: video, role play exercise with partner Day 4: Role play
Balancing power	One disputant is effectively imposing a one-sided, self-serving solution to the problem, due to that party’s aggressive behavior and/or the other party’s passive/unassertive behavior.	Interrupt the dialogue using the Behavior Reflection Tool to restore self-determining power to the low-power or low-intensity disputant.	Day 3: Nudges: video, Behavior Reflection exercise Day 4: Role play
Preventing bullying	The occurrence during mediation of persistent aggressive or unreasonable or emotionally abusive behavior by one party to effectively intimidate the other party into submission. Forms may be:	Interrupt the dialogue, acting as the authoritative “process leader” in charge. Use the “Informing and Reminding” Nudge to enforce boundaries, such as reminding the bully that the purpose of the mediation is to	Day 3: Nudges: video Day 4: Role play

	<ul style="list-style-type: none"> - Shouting - Threatening - Humiliating or embarrassing the other <p>Emotionally hurtful remarks, racial, ethnic, gender slurs.</p>	<p>create solutions that both parties voluntarily accept. If unsuccessful, suspend mediation. If consequences for bullying behavior are made a prior condition for mediation, then giving the bully an opportunity to learn and change may be appropriate. Equally important is the removal of those who do not change.</p>	
Managing emotions	<p>One or both disputants exhibit sufficient anger, fear, or despair to result in a pattern of avoidance or withdrawal and/or coercive behavior.</p>	<p>Interrupt the dialogue; help the individual(s) identify the source perception (illusion) of their emotion. Reframe it.</p>	<p>Day 3: Nudges: video Day 4: Role play</p>