

COURSE CONTENT

UNIT 1: NICARB MEDIATION SKILLS TRAINING PROGRAM COURSE OUTLINE

Introduction to the Mediation Skills Training Program

- Overview of Objectives and Key Competencies
- Structure and Format of the 6-Day Program
- Key Competencies to be Developed
- Participant Expectations and Requirements

UNIT 2: KNOWLEDGE DEVELOPMENT: HISTORY OF MEDIATION

- Ancient Roots of Mediation
- Evolution of Mediation in the Western Legal Tradition
- Mediation in Nigeria: Historical Context
- Modern Developments in Nigerian Mediation

UNIT 3: KNOWLEDGE DEVELOPMENT: INTERNATIONAL DEVELOPMENT AND TRENDS IN MEDIATION

- Rise of International Mediation
- Focus on Preventive Diplomacy
- Inclusive Mediation Practice
- The Singapore Convention on Mediation
- Technological Advancements
- Shift Towards Hybrid Approaches
- Emphasis on Outcome Sustainability

UNIT 4: INTENSIVE INSTRUCTION: CONFLICT THEORY AND ADR MECHANISMS. KNOWLEDGE DEVELOPMENT: CONFLICT THEORY

- Introduction to Conflict Theory – Realist, Human Needs, Social Identity, Structural Conflict theories.
- Types of Conflict – Interpersonal, Intergroup, Organizational, Societal.
- Conflict Resolution vs. Conflict Management
- Human Responses to Conflict

UNIT 5: KNOWLEDGE DEVELOPMENT: ALTERNATIVE DISPUTE RESOLUTION

- Overview of ADR Mechanisms (Mediation, Arbitration, Conciliation, etc.)
- Benefits of ADR
- Challenges of ADR
- ADR Institutions in Nigeria
- The Role of Mediation in ADR

UNIT 6: KNOWLEDGE DEVELOPMENT: LEGAL FRAMEWORK OF MEDIATION IN NIGERIA

- Introduction
- Overview of part 2 of the Arbitration and Mediation Act, 2023

UNIT 7: KNOWLEDGE DEVELOPMENT: INTEREST-BASED DISPUTE RESOLUTION

- Maslow's Hierarchy of Needs and Its Relation to Mediation
- The Conflict Pyramid and Its Relevance to Mediation
- Interest-Based Dispute Resolution

UNIT 8: KNOWLEDGE DEVELOPMENT: MEDIATION & THE MEDIATOR

- The Growing Application of Mediation
- The Different Models of Mediation
- Qualities Of an Effective Mediator
- The Role and Functions of An Effective Mediator
- Dos And Don'ts of An Effective Mediator
- The Mediation Principles
- Understanding The Mediation Process Flow From Preparation To Conclusion.

UNIT 9: KNOWLEDGE DEVELOPMENT: ROLES OF LEGAL COUNSEL AND REPRESENTATIVES IN MEDIATION

- Legal Representatives: Advocates or Supporters?
- Mediators' Interaction with Lawyers
- Managing Representatives in the Mediation Room
- Legal Representatives and Mediation Advocates – What's the difference?
- Mediation Advocates and Mediation Advocacy

UNIT 10: PRACTICAL SKILLS DEVELOPMENT IN MEDIATION

- Introduction to Process Management in Mediation:
- Structuring Joint and Private Meetings (Caucuses)
- Creating a Safe Space for Mediation
- **Exercise: Conducting and Managing Joint and Private Meetings**

UNIT 11: INTENSIVE INSTRUCTION

KNOWLEDGE DEVELOPMENT: THE FIVE PHASES OF MEDIATION.

11.01. PHASE 1: PREPARATION FOR MEDIATION

- Possible seating arrangements for effective mediation
- Process Management During Preparation
 - ✓ Gathering information
 - ✓ Understanding the dispute
 - ✓ Establishing the mediation framework
 - ✓ Setting the tone
 - ✓ Preparing the parties
 - ✓ Ethical considerations
 - ✓ Logistical requirements
 - ✓ Assessing power imbalances
 - ✓ Assessing the parties' needs
 - ✓ Setting ground rules
 - ✓ Creating an agenda
- Bringing the parties into the Mediation room

Faculty Demonstration: Preparation Phase with Roleplay Storyline

11.02. PHASE 2: THE OPENING PHASE

- Mediator Ethics and Setting the Tone
- Ethical Standards: Local and International Mediator Ethics
- Mediator's Opening Statement
- Inviting Party Statements and Establishing Ground Rules
- Practical Skills Development:
- Managing Early Party Behaviours: Setting Boundaries, Encouraging Openness
- Establishing Mediator's Neutral Role
- **Faculty Demonstration: Opening Phase with Roleplay Storyline**
- **Group Discussion: Addressing Ethical Dilemmas in the Opening Phase**
- Parties Opening Statements and identifying Issues in Mediation
- **Students Practice Opening Phase with a roleplay - Faculty go round the class to give feedback.**

11.03. PHASE 3: THE EXPLORATION PHASE

- Knowledge Development:
- Process Management in Exploration: moving between parties effectively
- Establishing and communicating the purpose of separate sessions
- Managing time and flow between sessions
- Confidentiality in Practice: Handling Sensitive Information in the probing phase
- Guiding Parties Through Their Stories
- Guiding parties through exploration without losing neutrality
- Creating consistent messaging across sessions
- Using Probing Questions to explore underlying interests
- Identifying Common Ground
- Assessing Readiness for Joint Sessions
- Structure of a Typical Probing Session
- **Faculty Demonstration: Exploration Phase with Roleplay Storyline**

11.04. PHASE 4: THE NEGOTIATION/BARGAINING PHASE

INTENSIVE INSTRUCTION - NEGOTIATION THEORY

Knowledge Development I:

- Overview of Negotiation and Conflict Resolution Theory
- Negotiation Styles: Competitive, Cooperative, and Integrative
- The Role of BATNA (Best Alternative to a Negotiated Agreement)
- Conflict Resolution Theory: Strategies for Resolving Disputes
- How Mediators Guide Parties Through Negotiation

Knowledge Development II:

- Process Management In Negotiation
- Framing Offers and Counteroffers
- Coaching Parties to Create Value and Claim Value.
- The Negotiator's Dilemma & The Concept of Mutual Gain
- Approaches to Negotiation
- Conducting Joint and Private Meetings to Facilitate Agreement
- Managing Information exchange & identifying common ground
- Negotiation Strategies: Concession Techniques, Breaking Impasses
- Handling Deadlocks and Stalemates
- Maintain energy and enthusiasm
- Active listening skills
- Responding to Party Behaviours
- Dealing with Dominant Parties and Quiet Parties
- Encouraging Participation from All

Faculty Demonstration: Bargaining Phase with Roleplay Storyline

11.05. PHASE 5: THE CONCLUDING PHASE

Knowledge Development: Finalizing the Agreement

1. Purpose of the Settlement Agreement
2. Who Should Write Up the Settlement Agreement?
3. Objectives of the Settlement Agreement
4. Contents of the Settlement Agreement:
 - The parties
 - Background/Recitals
 - Heads of agreement
 - Confidentiality
 - Assurance of authority
 - Mediator not to be called as a witness
 - The contents accurately reflect the agreement
 - Dispute resolution in case of dispute after the executed agreement
 - Terms binding on the parties once executed by authorized reps
 - Initialling of each page confirms that such clause accurately reflects the settlement terms
 - The agreement supersedes all prior agreements relating to the matter
 - The terms are to be in full and the final settlement of all the Applicant's claims against the Respondents.
 - The Terms of this Settlement shall have immediate effect.
 - Who signs the agreement?
5. Ensuring Clear Understanding of the Settlement
6. Mediator's Role in Drafting the Agreement
7. Workability and enforceability of the agreement
8. Handling Emotional Closure and Commitment to the Agreement
9. Negotiation Skills Development at the Conclusion
10. Revisiting Terms, Addressing Final Concerns
11. Ensuring Last-Minute Adjustments
12. Writing a Mediation Agreement.

Faculty Demonstration: Concluding Phase with Roleplay Storyline

UNIT 12: ESSENTIAL SKILLS DEVELOPMENT: EFFECTIVE COMMUNICATION SKILLS IN MEDIATION

- Introduction
- Elements Of Communication
- The Importance of Communication In Mediation
- Communication Strategies for Managing Difficult Conversations
- Barriers To Communication
- Verbal Communication Skills
- Non-Verbal Communication Skills
- Active Listening in Mediation

UNIT 13: ESSENTIAL SKILLS DEVELOPMENT: DEALING WITH EMOTIONS IN MEDIATION

- Introduction
- Handling Emotional Outbursts
- Building Understanding
- Emotional Intelligence in Mediation and the EQ Competencies
- Practical Application of EQ Competencies in Mediation

UNIT 14: ESSENTIAL SKILLS DEVELOPMENT: EFFECTIVE QUESTIONING SKILLS IN MEDIATION

- Introduction
- Open Questions
- Probing Questions
- Clarifying Questions
- Reflective Questions
- Hypothetical Questions
- Multiple Questions
- Loaded Questions
- Leading Questions
- Strategies for Asking the Right Questions

UNIT 15: ESSENTIAL SKILLS & KNOWLEDGE DEVELOPMENT: MEDIATION ETHICS AND ETHICAL DILEMMAS IN MEDIATION

- Introduction
- Neutrality
- Principle of Confidentiality
- Conflict of Interest

- Principle of Self-determination
- Principle of Impartiality
- Mediator's Competence and qualification rule
- Qualitative Mediation Process Rule
- Principle of Advertising and Solicitation
- Mediators' Obligations to the mediator process rule
- Agreement to Mediate Rule
- Rules regarding Termination or Suspension of the Mediation
- Relevant Sections On Mediator Ethics Under the Arbitration & Mediation Act, 2023:

UNIT 16: ESSENTIAL SKILLS DEVELOPMENT: NOTE-TAKING IN MEDIATION

- Note-Taking by the Mediator During Mediation: Purpose and Best Practices
- Why Mediators Take Notes
- When and Where to Take Notes
- Ethical Considerations in Note-Taking
- Tips for Effective Note-Taking
- Balancing Note-Taking and Active Listening

UNIT 17: ESSENTIAL SKILLS & KNOWLEDGE DEVELOPMENT: USE OF FLIP-CHARTS IN MEDIATION

- Introduction
- Phases Of Mediation Where Flip Charts are Most Useful
- How to Use Flip Charts Effectively in Mediation
- Advantages of Using Flip Charts in Mediation
- Confidentiality Considerations When Using Flip Charts
- Usefulness of the Flip Charts after the Opening Session
- Practical tips for using the flip chart effectively after the Opening Session

UNIT 18: ESSENTIAL SKILLS & KNOWLEDGE DEVELOPMENT: MEDIATION AND CULTURE – AN ESSENTIAL INTERPLAY FOR EFFECTIVE DISPUTE RESOLUTION

- What is Culture?
- Cultural issues in mediation
- Characteristics of Culture
- Cultural awareness for the mediator
- Culture and Conflict

- Cultural Differences in communication styles

UNIT 19: ESSENTIAL SKILLS & KNOWLEDGE DEVELOPMENT: POWER IMBALANCE IN MEDIATION – UNDERSTANDING AND ADDRESSING UNEQUAL DYNAMICS

- Introduction
- How Power Imbalance Arises
- Challenges Power Imbalance Brings to Mediation
- Strategies For Mediators to Address Power Imbalance
- Additional Strategies For Specific Situations
- Ethical Considerations for The Mediator

UNIT 20: ADVANCED PROCESS MANAGEMENT SKILLS DEVELOPMENT: PROCESS MANAGEMENT IN COMPLEX DISPUTES

- Introduction
- Managing Complex Multi-Issue and Multi-Party Disputes
- Handling Multi-Party Negotiations and High-Tension Cases
- Strategies For Responding to Party Behaviours in High-Conflict Scenarios
- Handling Hostile or Reluctant Parties
- Maintaining Control Without Losing Neutrality
- Cultural Sensitivity in Mediation
- Strategies For Working Effectively with a Co-Mediator

UNIT 21: KNOWLEDGE DEVELOPMENT: MEDIATOR LIABILITY: UNDERSTANDING THE EXTENT AND LIMITS OF LEGAL RESPONSIBILITY

- Mediator liability
- Does Mediator liability exist?
- Circumstances under which mediator liability may arise
- Addressing mediator liability
- Mediator liability across jurisdictions

UNIT 22: KNOWLEDGE DEVELOPMENT: MEDIATOR RECUSAL OR WITHDRAWAL - ETHICAL AND PROFESSIONAL CONSIDERATIONS

- Mediator recusal
- Mediator withdrawal
- Circumstances for mediator recusal circumstances for mediator withdrawal
- Addressing recusal and withdrawal
- Examples of recusal and withdrawal scenarios

UNIT 23: ESSENTIAL SKILLS & KNOWLEDGE DEVELOPMENT: ONLINE MEDIATION: A COMPREHENSIVE GUIDE

- Introduction to Online Mediation
- Key Technologies in Online Mediation
- Advantages of Online Mediation
- Challenges in Online Mediation
- Best Practices for Online Mediation
- Ethical Considerations in Online Mediation
- Recent Trends in Online Mediation
- Case Studies: Online Mediation in Practice
- Future of Online Mediation
- Conclusion

UNIT 24: TOOLS AND RESOURCES FOR MEDIATORS

- Sample Mediation Settlement Agreement
- The Mediator's Checklist
- Recommended Reading and Resources

UNIT 25: APPENDICES

- Glossary of Mediation Terms
- The NICArb Code of Ethics for Mediators

- Part 2 (Mediation) of the Arbitration & Mediation Act, AMA, 2023.
- Networking Opportunities
- Continuing Education Resources
- Developing your personal Mediation Practice

CONCLUSION

BIBLIOGRAPHY

REFERENCES