

**State Court Administrator Guidelines
Relating to Oregon Judicial Department
Court-Connected Mediator Qualifications Rules 12.100
Basic Mediation Training Curriculum - UPDATED**

A basic mediation training curriculum should include instruction to help the trainee:

1. Gain an understanding of conflict resolution and mediation theory, including instruction on:
 - a. Conflict theory;
 - b. Dispute resolution systems;
 - c. The evolution of mediation as a practice; and
 - d. Theories regarding the steps or phases of a mediation and transitions from one phase to another.
2. Effectively prepare for mediation, including instruction on:
 - a. Case management models so that the trainee might gain a general awareness of the ways that mediations are handled in various courts and programs that the trainee might encounter;
 - b. Assessing disputants and conflicts to ensure that the matter is within the mediator's skill and ability;
 - c. Structuring the process to ensure that it is appropriate for that particular matter;
 - d. The use of joint session and caucus-based models of mediation;
 - e. Helping parties, via pre-mediation communications, understand the mediation process including its potential benefits and its limitations;
 - f. Helping parties understand the mediator's role and the value of parties obtaining independent legal advice;
 - g. Helping the parties understand any technology used for the mediation and obtain their consent to use the selected format; and
 - h. Use of an agreement to mediate.
3. Support a safe, accessible, and comfortable environment for the mediation, including understanding and applying trauma informed practices in mediation, instruction on:

- a. Making opening statements, setting the tone, and explaining the process;
 - b. Establishing trust and respect;
 - c. Attending to physical and emotional safety in mediation.
4. Facilitate effective communication between the parties and between the mediator and the parties, including instruction on:
- a. Techniques that encourage effective listening, such as active listening, clarifying, reframing, paraphrasing, body language, open-ended questions, empathy, and validation; and
 - b. Dealing with strong emotions and interpersonal conflict.
5. Understand, apply and explain to the parties and the participants the expectations and protections of mediation confidentiality, and its limited exceptions.
6. Use techniques that help the parties solve problems and seek agreement, including instruction on:
- a. Creating a climate conducive to resolution or problem solving;
 - b. Identifying and distinguishing between positions and underlying interests;
 - c. Identifying, prioritizing, and assessing options including BATNA analysis; and
 - d. Techniques for breaking an impasse.
7. Understand and apply ethical standards for mediator conduct adopted by Oregon mediation organizations including the following topics addressed in the Oregon Mediation Association Core Standards of Mediation Practice:
- a. Party self-determination;
 - b. Informed consent;
 - c. Impartial regard;
 - d. Confidentiality;
 - e. Process and substantive competence;
 - f. Good faith participation;
 - g. Fees;

- h. Truth in advertising and solicitation;
 - i. Engaging only in the role(s) to which the parties consent; and
 - j. Acting in a manner that enhances the integrity and quality of the mediation field.
8. Conclude a mediation and memorialize any understandings and agreements, including:
- a. Elements of an agreement;
 - b. Instruction on the mediators' appropriate role in these activities;
 - c. Reporting on the status and the outcome of the mediation; and
 - d. Any post-mediation follow-up.
9. Effectively manage power dynamics in mediation, including instruction on:
- a. Recognizing types of power imbalances, including but not limited to:
 - (i) Power dynamics between the parties;
 - (ii) The dynamics of the mediator's identity, role, and organizational structures of the mediation service; and
 - (iii) Procedural versus substantive power dynamics.
 - b. Indicators of power dynamics in mediation;
 - c. Screening tools for identifying threatening behaviors and abuse, including domestic violence;
 - d. Responding to power dynamics in a way that upholds self-determination; and
 - e. Techniques for preventing coercion in mediation and ending the mediation if necessary.
10. Embed principles of diversity, equity and inclusion into mediation, including instruction on:
- a. Understanding language and terminology about equity, diversity and inclusion, race, national origin, gender identify, sex, sexual orientation, disability, socio-economic disparities, language differences, educational differences, etc.;
 - b. Building one's own awareness and understanding about differences in

culture and identity, and the need to adjust or end the mediation in circumstances where a party believes the mediator can not be sensitive to their identity or needs;

- c. Building one's own understanding of implicit and explicit bias and how to reduce it in mediation;
- d. The use of communication tools and inclusive language;
- e. How mediation approaches and guidelines can impact a party's perception of the mediation process; and
- f. How these principles can be applied through role plays or other skill development opportunities.

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