

40 Hour Basic Mediation Course: Course Content

- I. ADR Overview, Transferability of ADR Skills**
 - a. Distinguish Mediation, Arbitration, ENE, Court Systems, hybrids.
 - b. Compare the relative strengths and weaknesses of various dispute resolution procedures.
 - c. Understanding dispute resolution participants: arbitrator, judge, mediator facilitator, counselor, therapist, and diplomat.
- II. Communication Skills; Positive Strategies**
 - a. Active listening, reflection, effective communication and the role of validation, empathy, reframing, and maintenance of neutrality.
 - b. Verbal and non-verbal communication cue.
 - c. Interviewing skills; cross-examination, open-ended/ closed-ended questions.
- III. Communication Skills; Dealing with Negative Strategies**
 - a. Dealing with positional parties.
 - b. Understanding the basic principles of emotion, including sadness, guilt, and pain.
 - c. Managing violence, anger, personality types, yelling, profanity, threat of immediate/ future harm, and protocols for maintaining mediator safety.
- IV. Impact of Cultural Diversity**
 - a. How culture effects dispute resolution strategy and practice.
 - b. When ethnicity should be taken into account.
- V. Negotiation Theory**
 - a. Principles of neutrality—where are a mediator's boundaries; comprehending mediator ethics, decision-making, communications, and style.
 - b. Distributive bargaining, interest-based negotiations, positionalism.
 - c. Alternatives; BATNA/ WATNA/ MLATNA.
 - d. The ability to identify and deal effectively with power imbalances.
- VI. Negotiation Strategies**
 - a. Directive, Evaluative, Transformative styles.
 - b. Offer, rejection, counter-proposal, brainstorming, and creative solutioning.
 - c. Knowledge and discernment of when to employ mediator caucus.
- VII. Agency Involvements & Organizations**
 - a. Avenues for mediation referral.
 - b. Case development and convening; screening cases properly & mediator discernment.
 - c. The role of law in mediation; understanding rights of representation, inclusion of multiple parties, reporting structure, and working with government agencies.
- VIII. Overview of the Mediation Process**
 - a. Conducting mediation from convening to resolution.
 - b. The (5) phases of a mediation process and identification of tools for switching between mediation phases.
 - i. Early Phases:
 1. Pre-mediation tactics, co-mediator communication, convening, opening, setting the tone, professionalism.
 2. Seeking and maintaining client support.

3. Early v. late intervention.
- ii. Mid Phases:
 1. Issue identification via factual accounting.
 2. Brainstorming.
 3. Direct party communication.
- iii. End Phases:
 1. Negotiating.
 2. Overcoming impasse.
 3. Closing.
 4. Winning?

IX. Professional Standards

- a. Knowledge of issues related to timing and timeliness.
- b. Execution of agreements:
 - i. Written agreements, how to draft.
 - ii. Oral agreements & legal requirements.
 - iii. Note taking, repercussions and impacts.
- c. Confidentiality, Neutrality, Ethics.

X. Wrap Up

- a. Conducting mediation from pre-mediation phase to through agreement/contract.
- b. Questions/answers.
- c. Summation.