

# The Supreme Court of Ohio

COMMISSION ON DISPUTE RESOLUTION & DISPUTE RESOLUTION SECTION

## **TRAINING PROGRAM STANDARDS - SPECIALIZED FAMILY OR DIVORCE MEDIATION**

The Specialized Family or Divorce Mediation Training Program Standards (hereafter “Family/Divorce Standards”) have been approved by the Supreme Court of Ohio’s Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

### **I. Purpose**

To set forth specialized family and divorce mediation standards for Rule 16.23 of the Rules of Superintendence for the Courts of Ohio, effective January 1, 2020.

*(Training program sponsors may apply for Rule 16 training program approval by submitting the “Application for Training Program Approval” located on the Dispute Resolution Section’s website)*

### **II. General Requirements**

A specialized family and divorce training program shall last a minimum of 32.25 hours<sup>i</sup>, not including welcome, introductions, breaks and closing remarks. This can be broken up into 28 hours of live interactive, in person training and 4.25 hours of three online learning modules on OhioCourtEDU.

Course materials (written or electronic) shall be distributed to all participants prior to the training program. Nothing in this provision precludes faculty from sharing activities, exercises, and supplemental materials throughout the course, so long as such materials meet the Family/Divorce Standards set forth herein and are approved in advance by the Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

Pre-requisites – prior to taking this course, participants shall complete Fundamentals of Mediation Training approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution or otherwise meet the requirements of Sup.R. 16.23.

### **III. Faculty Qualifications**

Faculty shall be qualified by education, or have the necessary practical skills to conduct the program effectively in accordance with standards set forth herein. A training program sponsor shall have an ongoing duty to report any activity, criminal or otherwise, that would adversely affect the faculty’s ability to perform the functions of faculty delivering a training program.

### **IV. Training Program Methodology**

Both of the following techniques shall be used:

- A. Mediation Role Play – at least 9 hours must be devoted to supervised role play. It is strongly recommended, but not required, that the role play be conducted in small groups of 3-4 participants per role play coach; and
- B. A combination of at least three of the following techniques, shall be used:
  - 1. Lecture
  - 2. Group discussion
  - 3. Written exercises/activities (e.g., drafting mediation documents, such as confidentiality, agreements, a memorandum of understanding, a mediator’s introductory remarks, agreements to mediate, etc.)
  - 4. Mediation demonstration

**V. Training Program, Minimum Requirements**

The following categories shall be addressed for the minimum time specified for each subject (a non-exhaustive list of examples of topics that meet the requirement are listed in each category)

- A. Purpose of Divorce and Family Mediation (minimum of 90 minutes)
  - 1. Build a foundation for productive family interaction
  - 2. Assist parties in creating solutions suited to their unique circumstances
  - 3. Encourage parents to have direct input regarding time with their children
  - 4. Empower parties to determine their own outcomes
  - 5. Help parties move forward after marriage termination
  - 6. Keep children’s best interests at forefront of decision-making
  - 7. Terminate marriage more efficiently and quickly
  - 8. Maintain appropriate family relationships
  - 9. Model good communication
  - 10. Set the stage for continued communication between parents
- B. The Stage Mediation Model: Within this structure, the mediator must be able to explain the mediator’s role in each stage and how the stages in divorce and family mediation differ from those in fundamental mediation. Note, this shall not simply duplicate the fundamentals of basic mediation training.
  - Stage One: Pre-Mediation Preparation & Screening
  - Stage Two: Introduction
  - Stage Three: Information Gathering
  - Stage Four: Identify & Clarify Issues & Interests
  - Stage Five: Generate & Select Solutions
  - Stage Six: Conclude Mediation
- C. Dispute Resolution Processes: Within family and divorce cases, various dispute resolution processes are used. Within the continuum of processes, content shall address how various processes are used in family and divorce matters specifically.
  - 1. Negotiation
  - 2. Settlement conference
  - 3. Conciliation
  - 4. Collaborative Law
  - 5. Transformative Mediation
  - 6. Facilitative Mediation
  - 7. Early Stage Mediation
  - 8. Late Stage/Impasse Resolution Mediation
  - 9. Evaluative Mediation
  - 10. Med-Arb

11. Non-binding Arbitration
  12. Early Neutral Evaluation
  13. Parenting Coordination
  14. Litigation
- D. Statutes, Rules, Standards and Ethics: Content and learning objectives must relate the content to its use in mediation.
1. Statutes
    - a. Rights, obligations and responsibilities of marriage
    - b. Termination of marriage
      - i. Divorce
      - ii. Dissolution
      - iii. Legal separation
      - iv. Annulment
    - c. Parental rights and responsibilities
      - i. Sole custody
      - ii. Shared parenting
      - iii. School placement parent
      - iv. Child support
      - v. Parenting time
      - vi. Tax credits
    - d. Property Division
      - i. Marital
      - ii. Separate
      - iii. Duration of marriage
      - iv. Distributive awards
      - v. Retirement benefits and plans
    - e. Spousal support
      - i. Consideration factors
        1. Age
        2. Health
        3. Ability to work
        4. Retirement plans
        5. Education
        6. Standard of living
      - ii. Determinations
        1. Appropriate and reasonable
        2. Length
        3. Termination conditions
        4. Jurisdiction
      - ii. Tax rules
    - f. Jurisdiction
      - i. Married parents
      - ii. Unmarried parents
  2. Rules
    - a. Rule 16 of the Rules of Superintendence for the Courts of Ohio
  3. Standards
    - a. Model Standards of Conduct for Mediators (September 2005). Adopted by AAA, ABA, ACR.
  4. Ethics
    - a. Unauthorized Practice of Law (giving advice versus giving information)

- E. Family Systems, Family Dynamics & Child Development: Learning objectives must address how this topic is relevant and arises to mediation. Proposed curriculum that does show clearly how the content is relevant in mediation does not meet the training standards.
1. Family Systems
    - a. Closed vs. Open Systems
    - b. Effect of change on the family unit
    - c. Boundaries and rules
  2. Family Dynamics
    - a. Interpersonal
    - b. Cultural
    - c. Social
    - d. Family alignments
    - e. Power imbalances
    - f. Family roles
    - g. Substance abuse
    - h. Mental illness and high conflict personalities
      - Working with high conflict couples
  3. Emotions
    - a. What are they?
      - i. Physiological changes
      - ii. Thoughts
      - iii. Urges
      - iv. Behavior
    - b. Attending to emotional triggers
    - c. Reflecting strategies
      - Inclusive paraphrase (topic, feelings, and interests heard)
    - d. Calming strategies
      - EAR (Empathy, Attention, Respect) - adapted from the Bill Eddy Model
    - e. Venting
    - f. Grief
  4. Child Development
    - a. Stages of development
      - i. Cognitive
      - ii. Moral
      - iii. Psychological
    - b. Red flags
    - c. Temperament
    - d. Attachment
    - e. Children's experiences in divorce
    - f. Needs of children in divorce
  5. Adverse Childhood Experiences (ACEs) and Trauma
    - a. What are ACEs and trauma?
    - b. Impact of ACEs and trauma on interpersonal relationships
- F. Parenting Mediation

1. Co-parenting styles
    - a. High conflict
    - b. Parallel
    - c. Cooperative
  2. Goal-setting
  3. Developing Parenting Plans
    - a. What goes into parenting plans
      - i. General Statement on Co-Parenting
      - ii. Schedule for Children
      - iii. Parenting Rights and Responsibilities (including but not limited to major decisions concerning health, education, religious training, major activities, general welfare)
      - iv. Special Details (including but not limited to transportation, changeover times and places, education and health information exchange, plan for communication about the children, significant others, travel)
      - v. Process for Deciding Changes in Parenting Arrangements
      - vi. General Process for Decision-making and Conflict Resolution
    - b. Scheduling options
    - c. Techniques
      - i. For working with schedules
      - ii. For effective/improved communication
  4. Special Issues
    - a. Never-married parents
    - b. Same-sex parents
    - c. Long distance parenting
    - d. Use of mental health experts
    - e. Bringing children into mediation
    - f. Child abuse and neglect
- G. Financial Issues
1. Budgeting Information Gathering
    - a. Housing
    - b. Utilities
    - c. Household operation and maintenance
    - d. Food
    - e. Clothing
    - f. Transportation
    - g. Health, medical, dental
    - h. Children's education and child care
    - i. Education for self
    - j. Other
  2. Child Support
    - a. Monetary payments for child support
    - b. Child care expenses

- c. Other child-related expenses (expensive clothing, activities, camps, school expenses, etc.)
  - d. Medical insurance coverage for children
  - e. Medical costs not covered by insurance
  - f. Life insurance to cover obligations to children in case of death of parent
  - g. Income tax credits for children and signing of waiver; other income tax deductions
  - h. Post-high school educations of children
3. Spousal Support
  4. Property Distribution
    - i. Identifying assets and liabilities
    - ii. Valuing assets and liabilities
    - iii. Determining tax consequences
  5. Hidden assets and income
  6. Joint experts vs. dueling experts
  7. Short marriages and long marriages
  8. Bankruptcy
- H. Writing Agreement
1. Academy of Family Mediators Sample Guideline Standard for Memorandum of Understanding
- I. Working with Lawyers in Mediation
1. Budgeting Information Gathering
    - a. Concerns of Attorneys and Mediators
    - a. A Model for Working with Attorneys
    - b. Mediating with Attorneys in the Room
    - c. Mediating with Attorneys Not in the Room
    - d. Roles and Interfaces of Attorneys and Mediators
    - e. Notes to Parties and Attorneys from Mediation

## **VI. Approval**

Any mediation training program approved by the Supreme Court of Ohio Dispute Resolution Section as meeting these standards, is approved for a period of two calendar years. The training program sponsor, however, shall submit a listing of scheduled courses as least 45 days before each course, giving the date, time, location, and cost, if applicable, of the training program. Any material change in the course (such as a change in a primary faculty member, expert, or the curriculum) requires a new application to the Supreme Court of Ohio Dispute Resolution Section.

## **VII. Revocation of Approval**

The Supreme Court of Ohio Dispute Resolution Section has the right to audit approved training programs during the period for which the training program has been approved. Such an audit may include, but is not limited to: attendance of any part of the course, examination of evaluation forms, examination of curriculum and written materials, and interviewing participants. Approval of programs that are determined to no longer comply with these standards and/or the “*Obligations and Responsibilities for Sponsors*” outlined in the “*Instructions, Obligations, and Responsibilities for the Approval of Required Dispute Resolution Trainings under the Supreme Court of Ohio Rules of Superintendence for the Courts of Ohio,*” located on the Dispute Resolution Section web site, will be revoked.

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<sup>i</sup> Trainers may incorporate the online learning modules located on [OhioCourtEDU](http://www.supremecourt.ohio.gov/Boards/judCollege/default.aspx) for up to four hours of the 32 hours. These modules include: (1) Overview of Divorce and Family Mediation; (2) Statutes, Rules, Standards and Ethics in Family Mediation; and (3) Family Systems, Family Dynamics and Child Development. You can access OhioCourtEDU here: <http://www.supremecourt.ohio.gov/Boards/judCollege/default.aspx>