

40-HOUR BASIC MEDIATION TRAINING WORKSHOP

TABLE OF CONTENTS

A About Mediation

A-1	What is Mediation.....	page A-1
A-2	Definitions of Mediation.....	page A-2
A-3	Different Forms of Mediation.....	page A-3
A-4	Principles of Mediation	page A-4
A-5	Mediated Negotiations.....	page A-5
A-6	A Comparison of Dispute Resolution Processes	page A-7
A-7	Advantages/Disadvantages Associated with Basic Types of Dispute Resolution	page A-8
A-8	Intake.....	page A-11

AA THE STAGES OF THE MEDIATION PROCESS: THE FRAMEWORK FOR PROBLEM-SOLVING

A-9	Maryland Confidentiality Law.....	page A-13
A-10	Confidentiality Form.....	page A-15
A-11	Mediation Agreement.....	page A-16
A-14	Public Sector Mediation.....	page A-19
A-15	Mediation Ground Rules.....	page A-21
A-16	Broken Ground Rules	page A-22
A-17	Seating Arrangement	Page A-23
A-18	The Stages of Mediation.....	page A-24
A-19	Stage 1: Setting the Stage.....	page A-25
A-20	Stage 2: Gathering Information: Storytelling.....	page A-29
A-21	Stage 3: Identifying & Framing the Issues.....	page A-30
A-22	Stage 4: Generating Options	page A-31
A-23	Stage 5: Developing an Agreement	page A-32
A-24	Stage 6: Finalizing Decisions	page A-33
A-25	Agreement to Mediate (NITA).....	page A-45
A-26	Agreement to Mediate	page A-49
A-27	“Confidentiality in Mediation,” by Stephen E. Moss.....	page A-51
A-28	“Protecting Confidentiality in Mediation,” by David Hoffman.....	page A-57

B Conflict and Paradigms: Mapping the Conflict

B-1	Needs-Based Negotiation (based on <i>Getting to Yes</i>).....	page B-10
B-2	“Positions and Interests”	page B-12
B-3	Types of Negotiation: Positional vs. Interest-Based	page B-13
B-4	Baruch Bush & Joseph Folger, <i>The Promise of Mediation</i> ..	page B-19
B-5	Empowerment and Recognition.....	page B-20

C Communications

CA GENERAL

C-1	Are You an Effective Communicator?	page C-1
C-2	Barriers to Effective Communication	page C-2
C-3	Overcoming Barriers to Effective Communication.....	page C-3
C-4	Communication Strategies	page C-4
C-5	Mediator Communication Techniques.....	page C-5
C-6	Communication in Mediation, by Christine Carlsten.....	page C-7
C-7	Twelve Roadblocks to Communication.....	page C-15
C-8	I Messages	page C-17
C-9	I Message Worksheet	page C-18
C-10	Phrases for Active Listening.....	page C-21
C-11	Reframing.....	page C-22
C-12	Framing Issues	page C-25
C-13	Using the “I Statement” in Reframing.....	page C-27

CA PARAPHRASING

C-14	Paraphrasing	page C-29
------	--------------------	-----------

CB QUESTIONS

C-15	Ten Tips on Asking Questions	page C-31
C-16	Mediator’s Checklist of Questions	page C-33
C-17	Questions to Ask to Establish Common Ground	page C-34
C-18	Probing Questions	page C-35
C-19	The Effectiveness of Questions in Mediation, Shaposnik.....	page C-36

CC TRIANGLES

C-20	Karpman Triangle	page C-38
C-21	The Conflict/Resolution Triangle	page C-39
C-22	Power Game/Discovery Triangles	page C-40

D Information Gathering: Story & Metaphor

DA “HARD” INFORMATION

D-1	*Assets and Income Statement.....	page D-1
-----	-----------------------------------	----------

D-2	*Business/Professional Information.....	page D-8
D-3	*Monthly Budget of Expenses Form I.....	page D-11

DB "SOFT" INFORMATION

D-4	"The Hidden Meaning of Conflict Stories," by Ken Cloke and Joan Goldsmith	page D-16
D-5	"Metaphors in Mediating" by Diane Yale	page D-33
D-6	Narrative Mediation: A Different Approach to Questions.....	page D-39

E Mediation and Conflict Management Skills

EA NEGOTIATION TECHNIQUES

E-1	Escalation and De-escalation	page E-1
E-2	Helpful Phrases in Mediation.....	page E-2
E-3	Collaborative Negotiation Techniques	page E-3
E-4	Techniques for Breaking Deadlock.....	page E-5
E-5	Reasons for Resistance	page E-7
E-6	Mediator Options: Parties Stuck	page E-8
E-7	Breaking Impasse – Practical Tools and Techniques, by Allen Church.....	page E-9
E-8	Conflict Resolving Counter-Tactics	page E-10
E-9	Settlement Strategies	page E-11

EB CAUCUS

E-10	Caucus.....	page E-13
E-11	Balancing the Pros & Cons of A Private Session	page E-14
E-12	"What Happens in Caucuses, "	page E-15
E-13	"The Caucus : Private Meetings That Promote Settlement," by Christopher W. Moore	page E-17
E-14	"Caucus," The District Court of Maryland.....	page E-24
E-15	"The Use of Separate Sessions in Family Mediation," by Charles A. Bethel.....	page E-25

EC CO-MEDIATION

E-15	The Art of Co-Mediation.....	page E-33
E-16	Guidelines for Co-Mediation	page E-34
E-17	Co-Mediation, NAFCM Notes, Ben Carroll.....	page E-35

F Power-Balancing and Neutrality

F-1	Power in Conflict	page F-1
-----	-------------------------	----------

F-2	Power Imbalance	page F-2
F-3	Sources of Power	page F-4
F-4	Exploit Mediation's Power to Balance Power	page F-5
F-5	Rosabeth Kantor on Power.....	page F-7
F-6	"The Dynamics of Power in Mediation and Negotiation," by Bernard Mayer.....	page F-9
F-7	"Empowerment and Mediation: A Narrative Perspective," by Sara Cobb	page F-16
F-8	"Thinking about Power," by Beth Roy	page F-45
F-9	"Ten Ways of Being at an Uneven Table," by Phyllis Kritek...	page F-50

G Drafting the Memorandum of Understanding

G-1	Guidelines for Drafting the Memorandum of Understanding.....	page G- 1
G-2	*Cover Letter to Attorneys.....	page G-1d
G-3	Sample Workplace Agreement	page G-6
G-4	"Putting the Agreement in Writing," Karl Slaikeu.....	page G-7
G-5	ABA Section of Dispute Resolution's Draft Resolution on Mediation and The Unauthorized Practice of Law.....	page G-63
G-6	"Mediation and the Unauthorized Practice of Law," by David Hoffman and Natasha A. Affolder".....	page G-67
G-7	Public Policy Community Relations Service Agreement: Oklahoma City.....	page G-79
G-8	Public Policy Community Relations Service Agreement: Grand Rapids.....	page G-87
G-9	Small Claims Neighborhood Agreement (NITA).....	page G-94
G-10	Workplace Agreement (NITA).....	page G-95
G-11	Termination Agreement (NITA)	page G-99
G-12	Partnership Dissolution (NITA)	page G-101
G-13	Small Claims Consumer Agreement (NITA)	page G-105
G-14	Business Dissolution (NITA)	page G-107
G-15	Neighborhood Development Agreement (NITA).....	page G-110
G-16	Request for Withdrawal of Discrimination Complaint (OHR)	page G-114
G-17	Pre-Determination Settlement Agreement (OHR)	page G-115
G-18	Negotiated Settlement Agreement (OHR).....	page G-118

H Dealing with Difference: Culture, Gender & Diversity

H-1	Resources on Culture and Mediation.....	page H-1
H-2	Culture and Mediation, Albie M. Davis.....	page H-2

H-3	Mediation and Multiculturalism, Mediation Project, AODC, Salem, Massachusetts	page H-3
H-4	Annotated Diversity Bibliography, Association for Conflict Resolution	page H-5
H-5	Cultural Competency in Mediation, Kirby Edmonds & Laura Branca, TFC Associates.....	page H-15
H-6	“ So, how Do You Become Culturally Competent ? ” Catherine Hastings, Ph.D.....	page H-19

I Ethics and Standards of Practice

IA STANDARDS OF PRACTICE

I-1	Model Standards of Conduct for Mediators (AAA;ABA;SPIDR)	page I-1
I-2	“Types of Ethical Dilemmas Mediators Face,” by Baruch Bush	page I-10

IB CONFIDENTIALITY

I-3	"Protecting Confidentiality in Mediation," David A. Hoffman	page I-36
I-4	Key Questions Regarding a Mediation Privilege Statute.....	page I-40
I-5	"Confidential, More or Less," by Christopher Honeyman.....	page I- 41
I-6	Uniform Mediation Act: Executive Summary	page I-43
I-7	Uniform Mediation Act.....	page I-45

IC CREDENTIALING

IC-8	“Credentialing Efforts in Mediation: The Slow Movement Toward Skills-Based Testing,” by Ellen Waldman	page I-59
------	---	-----------

ID MEDIATION AND THE LAW

ID-9	Why Send To Lawyers, and What Do We Say When We Do?	page I-67
------	---	-----------

J Organizational Materials

J-1	Organizational Address List.....	page J-1
J-2	Mediate.com.....	page J-2
J-3	A.C.R. Membership Application	page J-3
J-4	C.E.M. Professional Liability Insurance.....	page J-5
J-5	International Academy of Mediators (IAM)	page J-15
J-6	Family Firm Institute.....	page J-20
J-7	Robert A. Badgley, “Mediation Liability: A Snapshot”	page J-31
J-8	Federal Government Interagency ADR Working Group...	page J-63

K Maryland Mediation and the Courts

K-1	Maryland Council for Dispute Resolution Certification Packet.....	page K-1
K-2	Mediator Qualifications: M.C.D.R. Resolution.....	page K-2
K-3	M.C.D.R. Certification Application	page K-4
K-4	Maryland Court of Appeals Rule 17 on Mediator Qualifications, Training, Application, Fees, etc.....	page K-11
K-5	Maryland Administrative Office of the Courts Application to be Listed for Designation as a Mediator.....	page K-29
K-6	Maryland Health Care Malpractice Claims ADR Program Application.....	page K-34a
K-7	Maryland Standards of Conduct for Mediators, Arbitrators and Other ADR Practitioners, approved by the Maryland Court of Appeals.....	page K-35
K-8	State’s Attorney for Montgomery County Mediation Program	page K-53
K-9	District Court of Maryland Volunteer Mediation Application	page K-55
K-10	“Volunteer Mediators Serve the District Court,” by Rentschler	page K-61
K-11	District Court ADR Programs.....	page K-62
K-12	Becoming a Mediator Volunteer in District Court.....	page K-63
K-13	Mediator Apprenticeship Basics in District Court.....	page K-64
K-14	Day of Trial ADR Programs in District Court.....	page K-65
K-15	District Court of Maryland Staff.....	page K-67
K-16	Maryland Association of Community Mediation Centers.....	page K-68

L Marketing & Starting a Practice

L-1	Marketing Strategies.....	page L-1
L-2	Mediation Marketing Institute, Tammy Lenski.....	page L-2
L-3	MACRO’s “Mediation: It’s Your Solution” Posters.....	page L-3
L-4	"Design Your Own Low-Cost Practice Brochures".....	page L-15
L-5	NextClient Custom Websites.....	page L-17
L-6	Mediation Websites.....	page L-28
L-7	"Time to Develop a Website?" James Melamed.....	page L-29
L-8	“Building a Successful Mediation Practice,” James Melamed..	page L-31
L-9	CLC Incorporated.....	page L-36a
L-10	Maryland Health Care Malpractice Claims ADR Program Application.....	page L-39
L-11	Montgomery County Office of Human Rights	page L-48
L-12	United States Postal Service Redress Program	page L-49
L-13	Maryland Agricultural Conflict Resolution Service.....	page L-50

*Evaluation Forms