

# Family Mediation Training

## LEARNING OBJECTIVES

At the conclusion of our training, you will have developed a fundamental understanding in the following core areas required for Family Mediators, and you will be able to:

### (A) COMMUNICATION SKILLS

- (1) Identify and demonstrate the essential elements for effective listening and responding.
- (2) Identify and demonstrate the essential elements for effective note-taking.
- (3) Identify and demonstrate the essential elements for effective questioning.
- (4) Demonstrate the essential techniques for gathering information.
- (5) Identify and demonstrate appropriate non-verbal communication.
- (6) Identify and demonstrate the appropriate format for recording the understanding of the parties, including use of the appropriate language for persons, dates and financial sums.
- (7) Understand that a mediator shall cause the terms of any agreement reached to be memorialized appropriately and discuss with the parties and counsel the process for formalization and implementation of the agreement.
- (8) Identify legalese and jargon which inhibit the communication process between the mediator and the parties.
- (9) Develop an awareness that people differ in how they make decisions, how they process information and how they communicate.

### (B) COMMUNITY RESOURCES AND REFERRAL PROCESS

- (1) Understand and identify when and how to use outside experts effectively or how to assist the parties in determining appropriate community resources.
- (2) Identify situations in which the mediator should suggest that the parties contact independent legal counsel, postpone or cancel mediation or refer the parties to other resources.
- (3) Identify appropriate courses of action when confronted with substance abuse during the mediation session.

## (C) CONFLICT RESOLUTION CONCEPTS

- (1) Define and understand the difference between non-litigation methods of dispute settlement, including: negotiation, mediation and arbitration.
- (2) Identify criteria by which parties select a method of dispute settlement for resolving particular disputes and evaluate the strengths and weaknesses of any dispute settlement method.
- (3) Understand and demonstrate effective use of basic principles of negotiation.
- (4) Understand how mediation is an extension of negotiation.
- (5) Contrast mediation with litigation and understand the difference in roles of judges, lawyers, experts, mediators and arbitrators.
- (6) Understand that mediation involves empowerment.

## (D) COURT PROCESS

- (1) Understand the route and manner by which a case is referred to mediation.
- (2) Understand the difference between a pre-judgment and post-judgment mediation.
- (3) Explain the consequences of a mediated agreement as well as a failure to reach agreement.
- (4) Identify the state rules, state statutes and local procedures and forms governing family mediation and understand the applicable portions of each.
- (5) Demonstrate awareness of the American with Disabilities Act (ADA) requirements and strategies for handling situations when faced with disability issues or special needs.
- (6) Understand the constraints on confidentiality and be able to identify the exclusions (both as relates to the entire mediation and the separate session).
- (7) Understand mentorship and application for certification requirements.
- (8) Understand the difference between mediation pursuant to court order and pre-suit or voluntary mediation.

## (E) DIVERSITY ISSUES

- (1) Recognize personal biases, prejudices, and styles which are the product of one's background and personal experiences.
- (2) Identify cultural, racial, ethnic, age, gender, religious and disability issues which may arise in mediation.
- (3) Understand socio-economic, cultural, racial, ethnic, age, gender, religious, sexual orientation and disability issues which may arise in mediation and/or affect the parties' negotiation style, ability or willingness to engage in mediation.

- (4) Identify techniques for mediating cases where there is a language barrier or when a translator participates in the mediation session.

## (F) FAMILY ECONOMICS

- (1) Assist the parties in effectively gathering personal and family financial information.
- (2) Complete a financial affidavit.
- (3) Understand the significance of asset valuation issues, including, but not limited to:
  - A. valuation date;
  - B. cost basis;
  - C. future tax liabilities; and
  - D. valuation basis.
- (4) Understand the importance of full financial disclosure.
- (5) Understand the significance of business valuation issues, including, but not limited to:
  - A. businesses;
  - B. sole proprietorships;
  - C. partnerships;
  - D. corporations; and
  - E. joint ventures.
- (6) Understand the significance of tax issues relating to divorce, including, but not limited to:
  - A. dependency exemptions;
  - B. marital residence;
  - C. transfers of stock or property;
  - D. legal expenses;
  - E. innocent spouse rule;
  - F. filing status issues;
  - G. life insurance products;
  - H. property transfer rules;
  - I. alimony; and
  - J. pensions and retirement plans.
- (7) Understand the significance of valuation and division issues relating to pension and retirement plans, including, but not limited to, the use of Qualified Domestic Relation Order (QDRO) and its implications.
- (8) Understand the issues of valuation of life insurance for equitable distribution purposes.
- (9) Understand the role of life insurance to secure support.
- (10) Calculate child support based on child support guidelines and consideration of additional economic needs of children.
- (11) Recognize the need for outside financial experts/resources.
- (12) Familiarize yourself with different types of financial experts.

## (G) FLORIDA FAMILY LAW

Understand the following concepts as they relate to Family Mediation

- (1) geographic relocation;
- (2) equitable distribution;
- (3) shared and sole parental responsibility laws;
- (4) parenting plan including time sharing schedule;
- (5) child support and child support guidelines;
- (6) spousal support;
- (7) grandparent rights;
- (8) domestic violence;
- (9) abuse and neglect; and
- (10) paternity.

## (H) ISSUES CONCERNING THE NEEDS OF CHILDREN IN THE CONTEXT OF DIVORCE

- (1) Understand the needs of children and the effect of divorce on their relationships with their mother, father, step families, siblings and others in the family relationship.
- (2) Understand the impact the mediation process can have on the children's well-being and behavior and recognize when and how to involve children in mediation.
- (3) Understand the definitions and concepts of co-parenting and shared parental responsibility.
- (4) Understand child(ren)'s developmental stages and how they relate to divorce and parenting arrangements.
- (5) Understand the impact of parental conflict on children's well-being and the parental alienation syndrome.
- (6) Understand and be able to assist parties in developing options for different parenting arrangements which consider the needs of the child(ren) and each parent's capacity to parent.
- (7) Identify the indicators of child abuse and/or neglect.
- (8) Understand the role of the GAL and how the GAL may participate in the mediation process.

## (I) MEDIATION PROCESS AND TECHNIQUES

- (1) Identify the stages and components of the mediation conference.
- (2) Understand and demonstrate the role of the mediator in structuring the mediation conference, such as conducting an opening statement, preparing a party to mediate, maintaining decorum, professionalism, control of the session, structuring and managing the discussion, building on partial agreements, scheduling the time, location and number of conferences, establishing the format of each conference and focusing discussion.

- (3) Understand the importance of demonstrating empathy, building rapport, establishing trust, setting a cooperative tone, demonstrating neutrality and impartiality, demonstrating sympathetic listening and questioning, empowering parties and remaining non-judgmental.
- (4) Identify and demonstrate the characteristics which enhance or undermine the effectiveness of the mediator including, language use, non-verbal communication and eye contact.
- (5) Identify the principles and functions which define the mediator's role and distinguish it from other forms of dispute resolution intervention.
- (6) Identify those procedural elements which must be taken care of prior to the entry of the parties into the mediation room, including seating of parties and set-up of the room.
- (7) Understand that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator and shall inform the mediation participants that mediation is a consensual process; the mediator is an impartial facilitator without the authority to impose a resolution or adjudicate any aspect of the dispute; and communications made during the process are confidential except where disclosure is required by law.
- (8) Deliver an appropriate opening statement.
- (9) Understand and demonstrate the mediator's role in identifying issues and developing a full understanding of the parties' agendas.
- (10) Frame issues in neutral language.
- (11) Develop a strategic framework for discussing the issues in a dispute.
- (12) Differentiate between issues which are appropriate for mediation and those that are not appropriate.
- (13) Identify individuals who are entitled to participate in the mediation conference as well as those non-parties who may need to be present, including legal parties as well as "parties in interest", for example, best friends, family members, workers' compensation lien holders, guardians ad litem (GALs).
- (14) Understand the special needs of the pro se party.
- (15) Identify situations in which participation of non-parties (e.g., grandparents, children, new spouses) may be necessary in the mediation.
- (16) Identify and demonstrate techniques for a mediator to use to assist a party in reconsidering his/her position on a particular proposal.
- (17) Demonstrate when to use various persuasion techniques.
- (18) Identify and demonstrate techniques to obtain closure and deal with unresolved legal issues.
- (19) Identify the circumstances in which issues are appropriate for discussion in joint session and those which should first be discussed in separate session (caucus).

- (20) Understand and demonstrate how to use separate sessions and how to introduce them to the parties.
- (21) Identify appropriate techniques for mediating cases in which one or more parties are represented by attorneys.
- (22) Identify appropriate techniques for handling difficult situations (e.g., a party walks out, a party makes personal attacks on another party or mediator, a party is not really engaged in the mediation, a party or attorney is very recalcitrant, a party or non-party is emotionally overwrought or a party appears to be physically ill).

## (J) PSYCHOLOGICAL ISSUES IN SEPARATION AND DIVORCE AND FAMILY DYNAMICS

- (1) Understand the impact divorce has on individuals and on family dynamics and the implications for the mediation process.
- (2) Identify and understand how emotions impact on divorce issues and a party's ability to effectively mediate.
- (3) Identify the indicators of domestic violence.
- (4) Understand the impact domestic violence has on the parties and their capacity to participate meaningfully in the mediation session.
- (5) Identify the stages of divorce and grief and the implications for the mediation process.
- (6) Understand the impact of grandparents, stepparents and significant others on family systems and the mediation process.

## (K) STANDARDS OF CONDUCT/ETHICS FOR MEDIATORS

- (1) Identify potential ethical dilemmas in the family mediation context.
- (2) Identify and demonstrate an appropriate course of action when confronted with an ethical dilemma.
- (3) Understand the Florida Rules for Certified and Court-Appointed Mediators (understand courses of action specifically prohibited).
- (4) Understand whether parties involved in mediation choose to resolve their dispute is secondary in importance to whether the mediator conducts the mediation in accordance with the Florida Rules for Certified and Court-Appointed Mediators.
- (5) Understand the mediator's responsibility to the courts.
- (6) Understand the mediator's responsibility to the parties.
- (7) Understand the mediator's obligations regarding impartiality.
- (8) Understand when a mediator shall adjourn, terminate, cancel or postpone a mediation session.

- (9) Understand the ethical constraints on confidentiality and identify the exclusions both in relation to the entire mediation and the separate session.
- (10) Understand the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.
- (11) Understand that a mediator may provide information that the mediator is qualified by training or experience to provide only if such can be done in a manner consistent with the standards of impartiality and the preservation of party self-determination.
- (12) Understand that a mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, direct a resolution of any issue or indicate how the court in which the case has been filed will resolve the dispute.
- (13) Understand that a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense only if such can be done in a manner consistent with standards of impartiality and preservation of party self-determination.
- (14) Understand that a mediator shall decline an appointment, withdraw or request appropriate assistance when the facts and circumstances of the case are beyond the mediator's skill or experience.
- (15) Understand the mediator's ethical obligations regarding advertising and billing practices.
- (16) Understand a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.
- (17) Understand the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators.