

Fundamentals of Mediation – Day One Outline

Subject Area	Actual Time Allotted	Running Time	Compliance to the Supreme Court Requirements	Correlation to the text book: <i>The Mediator's Handbook</i>
Introduction of the instructor and participants	10 minutes	8:00-8:10 AM	None	None
I. Introduction: <ul style="list-style-type: none"> A. Where this course fits into the certification process B. Certification requirements in Commonwealth of Virginia for GDC <ul style="list-style-type: none"> 1) 20 hour course 2) 4 hour Judicial System course 3) 2 observations 4) 5 hours of co-mediations & 3 mediations C. Certification is good for 2 years D. Re-certification: 5 mediated cases and 8 hours of CME (2 hrs ethics) E. Advanced certifications (refer to Virginia Court website www.courts.state.VA.us) <ul style="list-style-type: none"> 1) Family 2) Civil 	15 minutes	8:10-8:25 AM	Certification Requirements	None
II. Conflict <ul style="list-style-type: none"> A. What is conflict? B. Typical causes of conflict (conflict core) C. How people respond to conflict (styles) <ul style="list-style-type: none"> 1) Avoid 2) Competitive 3) Accommodate 4) Compromise D. Typical types of disputes in GDC <ul style="list-style-type: none"> 1) Small Claims \$5000 limit 2) Landlord-Tenant 3) Employee-Employer 4) Customer-Merchant 5) Contract - \$25,000 limit 	60 minutes	8:25-9:25 AM	Mediation in Context: Conflict Theory, Conflict Resolution Continuum	Understanding Conflict pp 79-92

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<p>III. Resolving Disputes A. Arbitration B. Litigation C. Negotiation D. Mediation</p>				
<p>IV. Mediation History A. What is mediation B. Why does it work C. When is it appropriate</p>	25 minutes	9:25-9:50 AM	Mediation in Context: History & Theory of Mediation	Overview pp 1-11
<p>Break</p>	10 minutes	9:50-10:00 AM	None	None
<p>V. Types of Mediation Styles A. Evaluative B. Transformative C. Facilitative D. Directive</p>	30 minutes	10:00-10:30 AM	Mediation in Context: Styles of Mediation	
<p>VI. Stages of Mediation A. Stage One: Setting the Stage B. Stage Two: Exploring the Situation C. Stage Three: Decision-Making D. Stage Four: Writing Agreement/Closing</p>	15 minutes	10:30-10:45 AM	Mediation Process: Stages of Mediation	Getting to the Table pp 15-26

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VII.	<p>Stage One: Setting the Stage (Introduction) First Impressions Greet the Parties of the Dispute</p> <ul style="list-style-type: none"> A. Introduce yourself and establish credibility B. Explain what the judge has asked them to do (if court referred) C. Make clear that parties are not choosing between mediation and trial (if court referred) D. No cost to parties (if court referred) otherwise explain fee structure E. Make clear expectations & how mediation works (resolve conflict and produce an agreement) F. Start monitoring (is the case appropriate for mediation?) G. Role of mediator (neutral) H. What is mediation 8.01.581.21 I. Confidential Process 8.01.576.10 J. Voluntary Process K. Court reporter for child Abuse VA Code 63.2-1509 	30 minutes	10:45-11:15 AM	<p>Mediation Process: Case Management & Determining Appropriateness for Mediation</p> <p>Mediation Skills & Techniques: Building Rapport; discovering barriers to communication (physiological, emotional, cultural, etc)</p>	
VIII.	<p>MEDIATION PROCESS: Getting Started Exercise</p> <ul style="list-style-type: none"> A. See attached handout for role play 	40 minutes	11:15-11:55 AM	Mediation Process, Role Play including preparation & debrief	
Lunch		35 minutes	11:55-12:30 PM		
IX.	<p>Orientation VA Code 8.01.576.4 Only required for court referred cases and is considered separate from the mediation process:</p> <ul style="list-style-type: none"> A. Screen the parties <ul style="list-style-type: none"> 1) Purpose of screening 2) Red flags 3) Forms (will vary) B. Data Collection <ul style="list-style-type: none"> 1) Name, Address, Phone Number 2) Case number 3) Trial date 4) When was the court action filed 	25 minutes	12:30-12:55 PM	Mediation Process: Process followed by the mediator, roles & responsibilities are present in each section	<p>Participants will be sent a copy of the Virginia Statement of Ethics and Virginia Statutes governing mediators by email to read prior to the beginning of class.</p> <p>Sample screening form</p>
		20 minutes	12:55-1:15 PM		

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<p>X: The Agreement to Mediate</p> <ol style="list-style-type: none"> 1) Explain the “Virginia Legals & Statutes” <ol style="list-style-type: none"> a. Confidentiality (8.01.576.10) b. Voluntary process c. Parties have a right to consult a lawyer (Ethics D.2.b1-4) d. Mediator is neutral and can’t provide legal advice (Ethics D.2.b1-4) e. Mediator is a court reporter of child abuse (Ethics H2 & VA Code 63.2-1504). f. Any mediated agreement may affect the legal rights of the parties (Ethics D.2.b1-4) g. Should have draft agreement reviewed by counsel or waive right (Ethics D.2.b1-4) h. ALL parties must sign the Agreement to Mediate i. Impact of other parties on the process j. Don’t mediate prematurely. 	30 minutes	1:15-1:45 PM	Mediation Process: Mediation Statutes as well as those listed above, impact of lawyers and other professionals on the process	Participants will be provided with the current copy of the Virginia Child Abuse and Neglect Mandated Reporting Law
<p>Break</p>	15 minutes	1:45-2:00 PM		
<p>XI: MEDIATION PROCESS: Agreement to Mediate Exercise</p> <ol style="list-style-type: none"> A. See attached handout for role play 	60 minutes	2:00-3:00 PM	Mediation Process, Role Play including preparation & debrief	

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<p>XII. Stage Two: Exploring the Situation Establishing the Ground Rules</p> <ul style="list-style-type: none"> A. Typically the plaintiff(if court referred) talks first engages in “storytelling” uninterrupted B. Mediator is listening making a list of issues and asks questions <ul style="list-style-type: none"> 1) Panning for Gold – sifting through the story for “real” issues (DETERMINE WANTS V. NEEDS) 2) Keeps parties talking about the conflict not about each other (Ad Holmium attacks) C. Defendant (if court referred) speaks uninterrupted engages in “storytelling” D. Mediator listens and adds to the list of issues to be resolved <ul style="list-style-type: none"> 1) Summarizes the combined list of issues 2) Makes clear what mediation can fix and what it can’t E. Skills that are required include: active listening, note taking, questioning, paraphrasing, and reframing. 	60 minutes	3:00-4:00 PM	<p>Mediation Process, Mediation skills & Techniques</p> <p>Skills that are required include: active listening, note taking, questioning, paraphrasing, and reframing.</p> <p>Please note that communication skills both verbal & nonverbal, oral & non-oral are on display continuously and will not be designated in other segments of the outline</p>	The Mediation Session Part I: Exploring the Situation pp27-54
<p>XIII. MEDIATION PROCESS Exploring the Situation A & B</p> <ul style="list-style-type: none"> A. See attached handout for role play 	60 minutes	4:00-5:00 PM	Mediation Skills & Techniques, Role play, Mediation Process	
<p>Homework: Participants will refine their introduction and explanation of the agreement to mediate. They will be required to demonstrate their progress of this skill first thing on the morning of day two.</p>				