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## **I. CERTIFICATION REQUIREMENTS FOR MEDIATORS**

### **A. Initial Certification of Mediators**

Mediators are certified by their CDRC. While there is no statewide certification, there are statewide standards for all mediators. CDRCs are solely responsible for the certification of their mediators, i.e. CDRCs approve people to mediate for their programs through the fulfillment of requirements as set forth by the New York State Unified Court System’s Office of ADR Programs (hereinafter “OADR”) and the CDRC.

#### *1. Initial Training of Mediators*

To obtain certification by a CDRC after January 1, 2003, every mediator must complete an initial community mediation training (“Initial Training”) that is at least 30 hours in duration and conducted by a trainer who has been certified by OADR (for more on certified mediation trainers see § (II), *below*). OADR considers a training to be conducted by a certified trainer as long as the certified trainer presents more than half of the training agenda and is present for at least 90% of training.

#### *2. Waiver of Initial Training Requirement*

##### *a) Non-Certified Trainings*

Mediators who have completed at least 30 hours of comparable training conducted by a non-certified trainer (e.g., a trainer from another state or as part of a course at a college, university, graduate school or other educational institution) may request a waiver of the Initial Training requirement (see § (I)(A)(2)(c), *below*).

A prospective volunteer mediator who has completed mediation training that was conducted by a non-certified trainer may be deemed eligible to begin an apprenticeship (see § (I)(A)(3), *below*) after providing the Program Director with:

- (1) documentation indicating that the mediator completed the training;
- (2) a copy of the curriculum, including whenever possible a detailed timed trainer’s agenda, training manual, and/or any other materials distributed during the training which provide the specific topics covered, the time allocated to each topic, the exercises utilized and the methodology of instruction;
- (3) a full description of the training; and
- (4) the resume of the trainer.

The training must have been at least 30 hours in duration.

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*b) Screening*

Upon receipt of the above documentation, the Program Director must screen the prospective mediator before accepting the mediator into an apprenticeship. During this screening, the Program Director should

- (1) evaluate the mediator's training by comparing it with the Training Curriculum Guidelines (see § (III), *below*);
- (2) assess any relevant mediation experience; and
- (3) Conduct a mediation role play simulation of at least 45 minutes in order to ascertain whether the mediator possesses the necessary skills to mediate according to the CDRC's performance standards.

*c) Waiver Request and Review*

After the screening, the Program Director is required to send OADR a formal memo requesting a Waiver of Training Requirement. The memo should include:

- (1) An explanation of how the mediator's interview and role play simulation indicated that the mediator has the necessary skills to mediate according to the CDRC's performance standards, and
- (2) A Proposed Training Plan that identifies any elements of Training Curriculum Guidelines that were not adequately addressed in the mediator's training and a proposed amount of live training addressing each element.

Staff from OADR will review the memo and the training materials and will assess the sufficiency of the Proposed Training Plan. The length of time of the supplementary training should be commensurate with the nature of the Training Curriculum Guidelines topics, which were not covered or adequately addressed in the mediator's prior training.

For example, if a previous mediation training did not discuss Article 21-A of the New York State Judiciary Law, the prospective volunteer mediator is ineligible to begin an apprenticeship until the CDRC trains the prospective mediator on this subject.

Upon written approval by OADR, the prospective mediator will be eligible to enter an apprenticeship.

*3. Apprenticeship*

To obtain certification by a CDRC after January 1, 2003, every mediator (including those whose Initial Training requirement has been waived) must participate in an apprenticeship after their Initial Mediation Training or combined training (see § (I)(A)(6), *below*).

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*a) Apprenticeship Plan*

Each CDRC is required to develop and submit for approval to OADR an apprenticeship plan that enables the center to monitor the development of its newest mediators and ensure that mediators are providing effective mediation services consistent with the criteria in the CDRC's performance standards (see § (I)(B)(3), *below*).

At a minimum, each CDRC's apprenticeship plan shall require all mediators seeking certification to:

- (1) Mediate or co-mediate at least two structured role-plays (The role-plays may be conducted as part of the Initial Training—and the duration of the role-plays may be applied towards the 30-hour requirement—provided that the apprentice is given a sufficient opportunity to: deliver an opening statement; help parties exchange information, identify negotiable issues and explore options for resolution; and draft a written agreement that incorporates the terms of the parties' resolution);
- (2) Observe at least three mediation sessions involving an actual controversy between actual parties;
- (3) Mediate or co-mediate at least five cases involving actual controversies between actual parties under direct supervision, followed by a debrief session. Direct supervision can be:
  - i) Apprentice mediates while being observed by a coach, mentor, or staff-person, or
  - ii) Apprentice co-mediate with a certified mediator and then debriefs with a coach, mentor, or staff-person.
- (4) Make every effort to complete requirements (1) - (3) within a six-month time period in order to maximize the apprentice's learning process; and
- (5) Undergo a final review
  - i) If and when the Program Director or his or her designee has deemed the apprentice ready for the final review, they shall observe each apprentice mediate an additional case for their final evaluation. The reviewer shall provide a written assessment to the mediator, and the mediator shall complete a written self-evaluation instrument.
  - ii) The Program Director or his or her designee(s) shall not certify any mediator unless that mediator demonstrates that he or she is adequately prepared to mediate pursuant to the criteria in the CDRC's performance standards.

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*b) Alternate Apprenticeship Plan*

A CDRC may submit an apprenticeship plan that deviates from the minimum requirements set forth above; however, approval by OADR will depend significantly on the extent to which the CDRC explains why its apprenticeship deviates from the minimum requirements set forth above and demonstrates that its apprenticeship meets the interests of monitoring the development of its newest mediators and ensuring that mediators are providing effective mediation services.

*4. Performance Standards and Assessment*

Mediators are certified by their CDRCs; it is the responsibility of the Program Director to certify to OADR that each mediator is adequately prepared to mediate. CDRCs must establish performance standards for mediators that are consistent with the Training Curriculum Guidelines (see § (III), *below*), that delineate the center's apprenticeship plan as approved by OADR, and that include locally adopted standards of conduct. OADR strongly encourages Program Directors to develop performance standards in cooperation with staff, volunteer mediators, and members of the board of directors for the CDRC.

CDRCs are encouraged to adopt as a performance standard for their mediators a minimum number of cases mediated or years' experience as a certified mediator that each mediator must attain before the center will assign the mediator to a Special Case Type mediation (see § (I)(B)(1), *below*); however, the CDRC may waive this standard for mediators whose initial training occurs in a Combined Initial and Special Case Type Training (see § (I)(B)(3), *below*).

*b) Mediators Certified Prior to January 1, 2003*

Each CDRC is encouraged to ensure that mediators certified prior to January 1, 2003 have not only completed training substantially equivalent to the training set forth in the Training Curriculum Guidelines, but also have participated in an apprenticeship substantially similar to the apprenticeship set forth in § (I)(A)(3), *above*.

Program Directors may exercise their discretion to waive additional training for mediators certified prior to January 1, 2003 in light of an individual mediator's experience and attendance at in-services and other training opportunities. However, Program Directors are expressly authorized to require additional training for mediators as needed.

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## B. Specialized Training for Advanced Case Types

### 1. *Advanced Training for Special Case Types*

Mediators assigned to one of the following Special Case Types must have been certified by the CDRC after completing the Initial Training (see §(I)(A), *above*) and must complete additional training as outlined below:

- a) The CDRC shall not assign a mediator to one of the following types of cases unless the mediator has completed the Initial Training as well as the following training:
  - (1) Parenting Disputes Involving Child Custody and Visitation\*—minimum 16 hours additional training;
  - (2) Child Support Matters\*—must have completed the 16 hours of training for Parenting Disputes Involving Child Custody and Visitation and additional training as approved by the Office of ADR Programs;
  - (3) Parent / Child or PINS (Persons In Need of Supervision) Matters—minimum 12 hours additional training; or
  - (4) Cases involving parties related to previous or current allegation of child abuse and/or neglect must complete 16 hours of custody and visitation training as well as meet the standards included in Chapter Five (see § (II)(A)).
- b) The CDRC shall not assign a mediator to a case referred from any Court unless the mediator has completed the Initial Training as well as six hours of additional training to mediate cases referred from that court, including training to satisfy the agreement-drafting needs of the local court. The trainings listed above can satisfy this requirement. The six-hour requirement can also be integrated as a part of an apprenticeship program.

### 2. *Apprenticeships for Specialized Trainings*

CDRCs are strongly encouraged to supervise certified mediators completing advanced trainings for special case types with an **additional** specialized apprenticeship specific to that caseload. Special case apprenticeships should, at minimum, include:

- a) Mediate or co-mediate at least two structured role-plays (The role-plays may be conducted as part of the Specialized Training—and the duration of the role-plays may be applied towards the hour requirement.)
- b) Observe at least three mediation sessions in the special case type involving an actual controversy between actual parties;

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\* This requirement applies to child custody, visitation or support disputes referred from Supreme Court, as well.

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(1) Mediate or co-mediate at least three sessions involving actual controversies between actual parties under direct supervision, followed by a debrief session. Direct supervision can be:

- i) Apprentice mediates while being observed by a coach, mentor, or staff-person
- ii) Apprentice co-mediate with a certified mediator and then debriefs with a coach, mentor, or staff-person.

c) Complete the above requirements within a six-month time period.

### 3. *Combined Initial and Special-Case-Type Trainings*

Trainings that combine content of the Initial Training and content of an Advanced Training for Special Case Type must run a minimum of 46 hours and must be completed in 3 months. The same trainer does not need to be present for its entirety as long as the requirements set forth in § (I)(A)(1) are met.

#### a) *Apprenticeship for Combined Trainings*

Program Directors are encouraged to develop an enhanced apprenticeship plan specifically for mediators who complete a Combined Training.

At a minimum, each center's apprenticeship for a combined training shall require all mediators seeking certification to:

- (1) Mediate or co-mediate at least two structured role-plays (The role-plays may be conducted as part of the Combined Training—and the duration of the role-plays may be applied towards the 46-hour requirement—provided that the apprentice is given a sufficient opportunity to: deliver an opening statement; help parties exchange information, identify negotiable issues and explore options for resolution; and draft a written agreement that incorporates the terms of the parties' resolution);
- (2) Observe at least three mediation sessions involving an actual controversy between actual parties;
- (3) Mediate or co-mediate at least five cases involving actual controversies between actual parties, 3 of which are in the specialty area, under direct supervision, followed by a debrief session. Direct supervision can be:
  - i) Apprentice mediates while being observed by a coach, mentor, or staff-person, or
  - ii) Apprentice co-mediate with a certified mediator and then debriefs with a coach, mentor, or staff-person.
- (4) Make every effort to complete requirements (1) - (3) within a nine-month time period in order to maximize the apprentice's learning process; and

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(5) Undergo a final review

- i) If and when the Program Director or his or her designee has deemed the apprentice ready for the final review, they shall observe each apprentice mediate an additional case for their final evaluation. The reviewer shall provide a written assessment to the mediator, and the mediator shall complete a written self-evaluation instrument.
- ii) The Program Director or his or her designee(s) shall not certify any mediator unless that mediator demonstrates that he or she is adequately prepared to mediate pursuant to the criteria in the CDRC's performance standards.

### C. Requirements to Continue Active Status as a Certified Mediator

Mediators must annually complete at least six hours of continuing education in order to maintain their certification. This may include, at the discretion of the local Program Director,

- (1) in-services scheduled by the CDRC,
- (2) in-services conducted by other centers,
- (3) attendance at conferences or trainings that meet the needs of the CDRC.

Mediators who attend trainings that are sponsored by OADR shall receive credit toward their continuing education requirement. (see Chapter One, Page 7 for guidance on entering Continuing Education information into Caseload Manager)

In addition, mediators must conduct—as lead or co-mediators—a minimum of three (3) mediation sessions per year.

### D. Recordkeeping

#### *1. Maintaining records of mediators*

CDRCs shall keep accurate records of the mediators on their roster, which includes

- (1) Mediator's first and last name,
- (2) Contact information (phone number, mailing address, and email)
- (3) Certification status,
- (4) Year of birth,
- (5) and such other information as may be necessary.

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### 2. *Establishing Mediator Records in Statewide Database*

All mediators must have a record in SWD, and these records must be associated with each case on which they provide DR services. In order to establish this record, the CDRC must send to OADR the following information about the mediator:

- (1) Mediator's first and last name,
- (2) Zip code, and
- (3) Year of birth.

Once it has this information, OADR will assign a unique Mediator ID number to the mediator and send this to the CDRC, with which a record in SWD can be created.

### 3. *UCS Contact with Mediators*

From time to time, OADR mails newsletters, brochures, surveys and other information directly to volunteer mediators.

Mediators may notify the center in writing that they do not wish to be contacted directly by the Office of ADR Programs, in which case the Program Director shall make a note of the request in the Statewide Database and notify OADR of the mediator's request within 30 days of receiving that written request.

## II. **CERTIFICATION REQUIREMENTS FOR MEDIATION TRAINERS**

OADR only certifies trainers who conduct Initial Trainings (see § (I)(A)(1), *above*) or trainings for Parenting Disputes Involving Child Custody and Visitation (see § (I)(B)(1), *above*). Accordingly, Program Directors whose centers offer trainings for one of the other Special Case Types (see § (I)(B)(1), *above*) or other trainings (*e.g.*, in-services) need not utilize the services of a certified trainer for those trainings.

Trainers seeking certification must apply for participation in the trainer certification process. This demanding process is intended to provide trainers with an appropriate level of support and guidance that will result in a successful training for volunteer mediators. The overriding goal of the process, regardless of final outcome, is to provide a learning experience that expands the trainer's skills and knowledge of teaching volunteer mediators. Details about applying to participate in the process are included below.

Certified trainers and trainers seeking certification are encouraged to include presentations by individuals other than the primary trainer. Certified trainers and trainers seeking certification are deemed primarily responsible for developing the philosophical framework of the training, coordinating the presentations of co-trainers and bridging their material, and ensuring that mediators receive the necessary skills and knowledge for a given training. Although already certified trainers are required to present at least half the training materials, trainers who are being observed for certification by a staff member from OADR are expected to attend the entire training and present at least three-quarters of the material in the training.

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Certified trainers are expected to train mediators on behalf of one or more Community Dispute Resolution Centers. A trainer's failure to train mediators on behalf of a CDRC within a three-year period may result in the removal of the trainer's name from the roster of mediation trainers certified by the Office of ADR Programs.

#### A. Application Procedures for Trainers Seeking Certification by the Office of ADR Programs

##### *b) Application for the Trainer Certification Process*

OADR will review applications twice a year: on April 1<sup>st</sup> for trainings to be conducted from October to February; and on September 1<sup>st</sup> for trainings to be conducted from March to September. A panel of Office of ADR staff and currently certified trainers will accept up to 6 applicants, up to three for each review period, each year to participate in the certification process. Applications are available at the Office of ADR web-site and from the Office of ADR Training Coordinator. Prior to completing an application, individuals are strongly encouraged to contact the Training Coordinator to learn more about the process.

##### *c) Office of ADR Programs Point-Person*

Once an individual has been accepted into the pre-work phase of the certification process, they will be assigned a point-person from the Office of ADR. The point person will serve a number of different roles during the process, including but not limited to:

- a) guide to the various stages of the process
  - b) resource to help link you to other trainers and training materials
  - c) coach/mentor with whom to discuss training/agenda development ideas, debrief training experiences, and explore professional development as a trainer
  - d) lead observer during your training
- d) Between the time an applicant is accepted into the trainer certification process, and the date of their training, the trainer will work with his/her point person to create the following:*
- a) An agenda for the training. The agenda must identify the subject and duration of each component of the training. Moreover, the agenda must identify the individual who will conduct a given component of the training if that person is someone other than the proposed trainer. If the training is an Initial Training or a Combined Initial and Special-Case-Type Training, the agenda must comply with the Training Curriculum Standards set forth in § (III), *below*.
  - b) A description of the exercises that will be used during the training
  - c) The proposed manual for the training. Individuals seeking certification to conduct Initial Trainings must submit a copy of the manual that the trainer will use during the training. Each prospective trainer must either:

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- i) Author his or her own manual (trainers must comply with all copyright laws and are encouraged to obtain and keep on file permission to reproduce any materials used in the training); or
- ii) Utilize a previously-written manual that:
  - a) A currently certified Initial Trainer wrote; and
  - b) Adequately reflects the necessary skills, knowledge and standards of practice for the CDRC where the training will be held (the Program Director must notify OADR in writing that the manual meets this requirement).
- d) A plan developed in consultation with the Program Director for apprenticing, observing and certifying training participants.
- e) The evaluation form that the trainer will distribute to the trainees at the conclusion of the training and forward to OADR within 30 days thereafter.

## B. Requirements to Maintain Active Status as a Certified Trainer

### e) *Professional Development*

Every certified trainer must:

- a) Conduct at least 20 hours of training each year. Aside from his/her area of certification, in-service trainings to mediations and trainings to various community groups can be included when calculating these hours.
- b) Receive a minimum of 7 hours of continuing education each year. Continuing education can include mediation related or training related in-service training, formal training, or attendance at conferences.
- c) Participate in a minimum of three mediations per year as lead or co-mediator.

### f) *Administrative Requirements*

Every certified trainer must:

- a) Indicate in writing on an annual basis whether the trainer has:
  - (1) Complied with the Professional Development requirements set forth above, and
  - (2) Trained mediators on behalf of a Community Dispute Resolution Center within the past three years
- b) Notify OADR of a change of address within 30 days of moving.
- c) Forward copies of completed evaluation forms to OADR and the CDRC within 30 days of the conclusion of all trainings for which the trainer is certified (*i.e.*, Initial Training or training for Parenting Disputes Involving Child Custody and Visitation).

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*g) Observation*

- a) S staff from OADR may contact each certified trainer periodically to schedule an observation of the trainer during an upcoming training. Following this observation, which will encompass a portion of the training, staff from OADR will discuss the observation with the trainer. If significant concerns are raised at this time, OADR will schedule an observation which will encompass the entire duration of a future training. If, after this second observation, significant concerns remain, a trainer’s certification may be revoked.
- b) Certified trainers are encouraged to observe other trainers to enhance their own skills and methods. OADR strongly encourages certified trainers to permit prospective trainers and other certified trainers to observe their trainings.

### **III. TRAINING CURRICULUM GUIDELINES FOR INITIAL MEDIATION TRAINING**

*1. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a history of dispute resolution.*

This material should define and distinguish the various dispute resolution processes—including negotiation, conciliation, facilitation, mediation, neutral evaluation, arbitration and litigation—and provide a historical context for the role that these processes have played internationally, nationally, statewide and at the local level.

*2. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a review of Chapter 847, Laws of 1981 (Article 21-A of the Judiciary Law).*

All details of Article 21-A must be discussed with specific emphasis on confidentiality, restitution, and adjournment in contemplation of dismissal. A review of the due-process rights (e.g., right to call witnesses, etc.) set forth in Article 21-A should be given. The scope of the final and binding nature of any settlement should be discussed, as should the availability of any written settlement agreement to a referring court.

*3. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a description of the justice system as it relates to the local dispute resolution center.*

This material should explain the roles of the local dispute resolution center and the Unified Court System of the State of New York in providing dispute resolution services to individuals. It should describe the referral process between the CDRC and the courts, district attorney’s office, law enforcement and other referral agencies. The material should help mediators distinguish between providing information and rendering legal advice.

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*4. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall help mediators understand the dynamics of conflict.*

The material should help mediators recognize that conflict has inherently positive and negative consequences. The material should help mediators understand how various factors—including emotional, psychological, and economic factors, as well as conflict management styles and approaches to conflict—may affect and be affected by conflict, including how these factors promote conflict, impede the resolution of conflict, and facilitate the resolution of conflict. In particular, mediators should learn how to recognize and acknowledge the emotions of parties in conflict, and they should be trained to help parties constructively discuss the emotional components of their conflict.

*5. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a description of the goals and purposes of the mediation process.*

This material should explain how mediators can create opportunities for party empowerment and help mediators understand the importance of party self-determination in controlling the mediation process and resolving the parties' dispute (to the degree consistent with the standards of practice for each center). The material should convey that a mediator's "success" is measured by the degree to which he or she affords parties an opportunity to communicate consistent with the standards of practice for the CDRC, not by the frequency with which he or she helps parties draft agreements.

The material should help mediators understand that parties' responses to conflict and their communication skills may be enhanced during the mediation session and in the future as a result of the parties' experience in mediation.

*6. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a description of the limits of mediation.*

The material should help mediators identify power imbalances that may preclude the commencement or continuation of mediation and give them skills to bring mediation to closure safely when necessary. It should contain definitions for domestic violence and child abuse, and the CDRC and local program guidelines for these issues must be reviewed.

*7. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a description of the CDRC's intake and referral procedures.*

The material should include all written forms used by staff to determine whether a given dispute is appropriate for mediation and a compilation of community resources available to parties upon referral from the CDRC. The material should also include any data collection procedures and copies of the

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most recent CDRCP Annual Report should be made available to trainees to demonstrate how that information is compiled.

*8. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall help mediators create a reasonably private, safe and supportive environment in which to conduct a mediation session and prepare them to deliver an opening statement.*

The material should help mediators effectively configure furniture and seat parties in the mediation room for the safety and comfort of the mediator(s) and parties. It should also advise mediators to review in advance any necessary paperwork and advise co-mediators to meet in advance of the session. The material should discuss appropriate dress for mediators and advise mediators to anticipate the needs of parties, including refreshment and breaks.

The material should include a sample opening statement that explains the confidentiality (and any exceptions thereto) of communications made during the session, the use of notes, the role of the mediator, the roles of any support people (including witnesses and attorneys), the decision-making authority of the parties, the voluntary nature of the process, and the potential use of private sessions.

*9. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall describe skills that mediators may use to help parties exchange information.*

The material should help mediators develop effective listening and questioning skills, including learning how to: reflect parties' statements; ask clarifying questions; use silence; identify negotiable issues in language that invites discussion; identify the values, needs, interests and other factors that motivate the parties' stated positions; and help parties recognize and develop common ground. The material should guide mediators on the benefits and limits of these techniques, as well as when and how to use these skills.

The material should also help mediators identify whether and when to utilize private sessions, and it should identify the particular confidentiality and parity concerns that are intrinsic to private sessions.

*10. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall describe techniques that can help parties organize their discussion in mediation.*

The material should explain how mediators and parties can organize and prioritize information for discussion. Moreover, the material should review techniques for working with parties to recognize and overcome impasse.

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*11. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall describe techniques for mediators that help parties develop and choose options for resolution.*

The material should discourage mediators from proposing and choosing solutions for parties. The material should help mediators develop parties' option-generation and option-selection skills. It should also explain how mediators can ask parties whether proposed solutions meet the parties' stated values, needs, interests and other factors that motivate the parties' stated positions.

*12. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall identify techniques for mediators that help them draft agreements for parties.*

The material should distinguish between verbal and written agreements. The material should also help mediators distinguish agreements from contracts. It should encourage mediators to use language supplied and agreed to by the parties that also satisfies the needs of any referring institution. It should also encourage mediators to draft specific, balanced agreements. The material should also discuss the potential consequences of including parties' apologies.

*13. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a summary of the CDRC's standards of practice.*

The material should help mediators identify key ethical obligations and distinguish between those ethical obligations and legal rights and responsibilities. Mediators should also be instructed to consult staff as necessary and given the skills to do so in a manner that disrupts the mediation process as little as possible.

The material should highlight the mediators' ongoing continuing education requirements and explain the certification requirements, including participation in an apprenticeship.

*14. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall include a discussion of cultural diversity.*

The material should prepare mediators to help people from different backgrounds reach consensus. Centers must provide services to individuals without regard to age, gender, race, sexual orientation, religion, national origin, or physical ability. Mediators should learn how and why conflict often results from clashes in cultural norms.

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*15. The Initial Training Curriculum for the Community Dispute Resolution Centers Program shall afford opportunities for experiential learning.*

The agenda should include exercises that permit trainees to practice skills. The material should include specific instructions to guide role-players, as well as guidelines for observers and other participants.

#### **IV. TRAINING CURRICULUM GUIDELINES FOR CUSTODY AND VISITATION (PARENTING PLAN) MEDIATION TRAINING**

- A. Purpose. The purpose of these curriculum guidelines is to provide individuals certified as custody and visitation mediation trainers and CDRC staff with guidance about the topics that should be covered in a training that prepares CDRC staff and volunteers to mediate in custody and visitation cases, also known as custody and parenting plan cases. The training should integrate core mediation skills and concepts within the learning objectives listed below so that trainees remain grounded in their role as mediators, as outlined in the CDRC Standards of Conduct for Mediators. The content scope and detail of these guidelines is meant to support certified trainers in conducting the training in their own style and voice, while promoting training consistency throughout CDRCs.
- B. **Learning Goal:** Prepare trainees to mediate custody and visitation cases.
- C. **Learning Objectives:** Upon completing this training individuals will be able to:
1. *Understand the court context related to mediating child custody and visitation cases including (minimum 1 hour):*
    - Court terminology regarding child custody and visitation, the possible differences in the ways that parties use these terms, and the use of mediator skills to help parties discuss family decision making and parenting plans.
    - Roles of Attorneys for the Child, Attorneys representing parties, relatives, and other parties and how mediators can include participants in the process.
    - Implications that parties' custody and visitation decisions may have on their child support obligations and the role of the mediator in informing parties.
    - Difference between providing legal information and legal advice.
  2. *Understand the complex dynamics of domestic abuse/violence including (minimum 2 hours):*
    - Domestic abuse/violence dynamics and behaviors and how they may appear in a mediation session should it not be screened out prior to a mediation session, and how a mediator should respond if a mediator suspects that a controlling, coercive, and intimidating pattern of behavior is present in the mediation session
    - Ending a mediation session in a way that promotes the safety of parties in accordance with local CDRC agency policy. (must be demonstrated to the group in a mediation simulation)
  3. *Differentiate parties' domestic abuse/violence dynamic from parties who exhibit heightened emotions and strong judgments, and assisting the latter by using mediator*

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- skills to support their discussion and decision making about custody, visitation, and other related issues (minimum 1 hour)*
4. *Understand child abuse and neglect including (minimum 1 hour):*
    - Definition of child abuse and neglect, the possible differences in the ways that parties use these terms, and the use of mediator skills to differentiate between an allegation of child abuse/neglect and more common concerns about parenting philosophies and strategies.
    - Role of the mediator according to the local CDRC agency policy, should allegations of child abuse/neglect and/or involvement of local department of social services be revealed during a mediation session.
    - Article 21A and the policy exception to confidentiality and the sources from which it has been developed that allows CDRCs to report allegations of child abuse or neglect to the proper authorities.
  5. *Understanding the common topics and typical needs parents may want to discuss and assisting them in developing a decision-making and parenting plan that works for their family including (minimum 2 hours):*
    - Common topics that parents and care-givers discuss such as holidays, vacations, overnights, and disciplining children and how mediators can assist parties in discussing and making decisions about these topics.
    - Utilizing tools such as calendars, chart paper, and checklists to assist parties in their discussions.
    - Working with parents and care-givers with diverse employment situations, work schedules, and economic means.
    - Understanding that because of the changing needs of families that agreements may need to be revisited and revised, subject to bilateral interest in doing so.
    - Considering the perspective of family members not present at the mediation session, yet who may be impacted by the decisions made in mediation.
  6. *Develop cultural humility in working with parties of differing family dynamics, backgrounds, life experiences including (minimum 3 hours):*
    - Awareness of the attitudes that parties may have toward the court system and social service providers, and how those attitudes might impact their participation in mediation. Gain sensitivity to the perceived power and authority that parties may believe mediators to possess.
    - Utilizing mediator skills to recognize and respond to the unique norms, beliefs, and values that each family brings to mediation.
    - Cultivating a nonjudgmental and curious disposition in order to assist families with a variety of family structures, parenting approaches, gender roles, and relationships.

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- Awareness of personal bias as it related to parties’ race, class, ethnicity, gender, age, sexuality or other traits that may result in a lack of neutrality or effectiveness in understanding and assisting parties.
7. *Write specific agreements that express parties’ decisions and that meet local court expectations including (minimum 1 hour):*
- Using court terminology and helping parties express their decisions in the language of the local court.
  - Explaining the parameters around agreements including that they are subject to court approval for cases that are in court.
  - Assisting parties in developing agreements that are specific and upon which parties can follow through.
  - Writing specific, detailed, well-organized, and future focused agreements that include decisions regarding a wide range of topics (such as holidays, parental communication, child care, child exchange, transportation, vacations/extended uninterrupted time, parent/child communication, etc.)
  - Utilizing charts, calendars, and visuals that supplement detailed text
8. *Understand local CDRCs policies and practices including (minimum 2 hours):*
- Case intake practices including domestic violence and child abuse/neglect screenings including local implementation of CDRCP Child Abuse or Neglect Guidelines (demonstration of these practices are recommended).
  - Complexion of local referral sources utilizing custody and visitation mediation, referral source’s goals regarding these services, and their agreement writing expectations.
  - Expectations of volunteers including local roster management practices, apprenticeship programs, and continuing education.
- D. **Training Duration:** A minimum of 16 hours, conducted by a certified custody and visitation trainer in coordination with CDRC staff. The certified trainer must be present for at least 14 hours of the training that addresses all of the guideline topics, with the exception of the two hours covering learning objective #8, which may be taught by a subject specialist without a certified custody and visitation trainer present, in consideration that this material may be addressed in any combination of time prior to, during, and after the fourteen hours addressing the other topics above. For all other areas of the custody visitation training, the certified trainer must be present even if presented by CDRC staff or guest trainer. All 16 hours must be completed prior to the certification of a mediator.
- E. **Role Plays:** Training must provide each participant at least two role play opportunities in the role of mediator. Roles plays must be:
- 30 minutes or more in duration and include feedback and debriefing for at least 15 additional minutes per role play opportunity

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- observed directly by a trainer or a role play coach who is a CDRC staff member or a mediator certified by a local CDRC. It is the responsibility of the certified trainer to prepare role play coaches to provide feedback related to each role play.

At least one role play or other activity must include an opportunity for trainees to write a full agreement. Agreements should be reviewed by the certified trainer and/or CDRC staff.