U.S. Mediation Qualification Training

Course Review
Chapter 1: Conflicts and Dispute Resolution
Introduction to Conflict

- The Dynamics of Conflict
- The Conflict Spiral
Dispute Resolution Methods

- The Common Law
- The American System
Development of ADR

- The ADR Movement
- ADR in United States
Comparison of Methods

- Vertical vs. Horizontal
- The Neutral Facilitator
Chapter 2:
The Texas ADR Act Model
Policy

- To encourage the peaceable resolution of disputes, especially disputes involving the parent-child relationship, and
- To encourage the early settlement of pending litigation
Mandate

- To the trial courts
- To the appellate courts
Referrals to ADR

- Initiating the Process
- Conference with Court
- Appropriate Referrals
- Selecting the Neutral
- Notification and Objection
- Resisting Referral
- Appellate Review
Chapter 3: Non-Binding Processes
Non-Binding Processes

- Mediation
- Neutral Evaluation
  - The Mini Trial
  - The Moderated Settlement Conference
  - The Summary Jury Trial
  - Non-Binding Arbitration
- Hybrid ADR Processes
Chapter 4: Binding ADR Processes
Arbitration

- Under Common Law
- Under Texas Statutes
  - Texas General Arbitration Act
  - Binding Arbitration in Texas
- Federal Arbitration Act
- Trial by Special Judge
Drafting Arbitration Agreements

- Forum Selection
- Choice of Law
- Scope of Claims
- Selection of Arbitrators
Procedural Issues

- Pleading
- Pre-hearing Conference
- Time, Date and Place of Hearing
- Conduct of Hearing
- Parties’ Default
Arbitrator’s Award

- Remedies
- Issuance and Enforcement
- Vacation and Review
Chapter 5: Negotiations and Strategies
Methods of Negotiation

- Positional Bargaining
  - Effect on Settlement
  - Impact on Relationships

- Alternative Methods
  - Focus on Interests
  - Separating the Problem
Improving Communications

- Reducing Emotions
- Changing Perceptions
- Stepping into Their Shoes
- Collaborative Problem-solving
- Creating Viable Options
Chapter 6: The Mediation Process
The Process

- Nature of Mediation
- Mediator’s Role
- Key to Success
- Mediation Atmosphere
- Mediation Attitude
Conducting the Mediation

- Mediator’s Introduction
  - Disclosures and Explanations
  - Parties’ Commitments
    - Authority to make decisions
    - Time and good faith negotiations
Conducting the Mediation

- Parties’ Submissions
  - Role of the Advocate
  - Role of the Parties
  - Mediator’s Function
Conducting the Mediation

- Parties’ Negotiations
  - Joint and Separate Conferences
  - Obtaining and Transmitting Offers
  - Creating and Testing Options

- Closing the Agreement
Chapter 7: Different Perceptions and Stereotyping
Perceptions

- Non-verbal Communications
- Verbal Communications
  - Effective Listening
  - Gathering Information
  - Maintaining Neutrality
Stereotyping

- Cultural Differences
- Gender-Based Differences
- Socio-Economic Differences
- Special Skills Needed
Chapter 8: Duties, Standards and Qualifications
Duties, Standards and Qualifications

- Statutory and Ethical
- Rules and Guidelines
- Professional Standards
- Licensing and Credentialing
Chapter 9: Confidentiality
Confidentiality

- Policy Considerations
- Exclusion or Privilege
- Statutes and Court Orders
- Contractual Privileges
- Duty to Disclose
Chapter 10: The Settlement Agreement
The Settlement Agreement

Legal Effect
- Enforcement as a Contract
- Consent Judgments
  - Incorporation in Decree
  - Withdrawal of Consent
  - The Family Law Statute

Memorandum of Understanding
Chapter 11: Impasse and Barriers to Settlement
Impasse and Specific Barriers to Settlement

- Impasse Happens
- Impasse Avoidance
- When Impasse Occurs
- Specific Barriers to Settlement
Chapter 12:
Designing an ADR System

- Traditional Methods
- ADR Processes
Traditional Methods

- Employment Grievances
  - Open-Door Policy
  - Ombudsman
  - Grievance Plans

- Compulsory Arbitration
ADR Processes

- System Design
- Examining Program Designs
- The Needs Assessment
- Selecting the Model
- Obtaining Critical Support
- Designing the ADR Plan
- Implementing the Program
- Creating a Fair System