

Mediation Training Standards & Procedures
AOSC00-9

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Part I General Provisions

1.01 Definitions

The following definitions shall apply:

- (a) Assistant Trainer. Any person who meets the qualifications specified in section 2.04 and who may critique role plays, facilitate group discussions and deliver any portion of the training for which expertise through education or experience is demonstrated.
- (b) Board. The Mediation Training Review Board.
- (c) Center. The Florida Dispute Resolution Center of the Office of the State Courts Administrator, Supreme Court Building, Tallahassee, Florida 32399-1905.
- (d) Circuit Civil Mediation. Circuit court mediation as defined in section 44.1011(b), Florida Statutes.
- (e) Committee. The Supreme Court of Florida Committee on Mediation and Arbitration Training.
- (f) Complaint Committee. Three members of the Board appointed to determine probable cause.
- (g) Counsel. Attorney appointed by the Center, at the direction of the complaint committee, responsible for presenting the complaint to the panel.
- (h) County Mediation. County court mediation as defined in section 44.1011(c), Florida Statutes.
- (i) Dependency Mediation. Dependency mediation as defined in section 44.1011(e), Florida Statutes.
- (j) Family Mediation. Family mediation as defined in section 44.1011(d), Florida Statutes.
- (k) Investigator. A certified mediator, attorney or other qualified individual appointed by the Center at the direction of a complaint committee.
- (l) Panel. Five members of the Board appointed to conduct a hearing to determine whether a violation of the standards has occurred.
- (m) Party. A complainant, a training program or any training program principal upon whom the complaint is served.

- (n) Primary Trainer. Any person who meets the qualifications specified in section 2.04 and who may critique role plays, facilitate group discussions and deliver any portion of the training for which expertise through education or experience is demonstrated.
- (o) Role Play Critiquer. Any person who meets the qualifications of an assistant or primary trainer.
- (p) Standards. The Supreme Court of Florida Mediation Training Program Standards and Procedures.
- (q) Subject Matter Specialist. Any person who meets the qualifications specified in section 2.04 and who may only present specific subject matter material during the training for which expertise through education or experience is demonstrated.
- (r) Training Program. A mediation training program certified by the Supreme Court of Florida.
- (s) Training Program Principals. The corporation or other entity, its officers, its principals and the trainer designated to attend the entire training program.
- (t) Venue. Tallahassee or such other location in the State of Florida as determined by the Complaint Committee or Panel Chair.

1.02 Center Responsibilities

- (a) Monitoring and Oversight. The Center shall be responsible for monitoring compliance with the standards, maintaining files on certified programs (including approved materials, agenda, application, evaluation summaries, trainer resumes and any changes submitted), responding to complaints and any other responsibility deemed appropriate by the Supreme Court or the Committee.
- (b) Mediator Certification Orientation. The Center shall advise all participants of the training and certification requirements. At the beginning of the training program, mediation training programs shall show a video (of approximately 15 minutes) provided and produced by the Center.

1.03 Training Program Responsibilities

- (a) Certification Requirements. A training program must meet the requirements specified in these standards to be certified.
- (b) Training Program Coordination. For each certified training program offered, an individual must be designated to be responsible for and held accountable on behalf of the program for:

- (1) providing the Center with copies of all advertisements for certified mediation training programs;
- (2) providing the Center with profile forms and resumes from all primary and assistant trainers and subject matter specialists who will be used during the training;
- (3) ensuring proper facilities are secured with appropriate equipment needs;
- (4) ensuring that the training agenda is followed and that all content is covered;
- (5) ensuring that evaluations are completed and maintained;
- (6) ensuring that a primary trainer is in attendance at all times;
- (7) ensuring that a trainer (primary or assistant) is present for the complete program;
- (8) ensuring that all participants complete the requirements of attendance and participation;
- (9) ensuring that all trainers designated to critique role plays have viewed the critique video; and
- (10) all other requirements as may be adopted by the Supreme Court of Florida or the Committee.

Part II Training Standards

2.01 Training Parameters

- (a) Length of Training. An instructional hour is defined as 60 minutes.
 - (1) County mediation training shall be a minimum of 20 instructional hours.
 - (2) Family mediation training shall be a minimum of 40 instructional hours.
 - (3) Circuit Civil mediation training shall be a minimum of 40 instructional hours.
 - (4) Dependency mediation training shall be 40 instructional hours. However, certified family mediators who have previously mediated at least four dependency cases only shall be required to complete 20 instructional hours. Individuals seeking to complete dependency mediation training cannot combine two 20 hour dependency mediation training programs to satisfy the 40 hour requirement.

- (b) Attendance as Trainer. Trainers cannot fulfill the attendance requirement at training programs in which they present.
- (c) Span of Training. County and the 20 hour dependency mediation training must be presented over a minimum of three days and a maximum of 30 days in blocks of time of at least three hours. Family, circuit civil and the 40 hour dependency mediation training must be presented over a minimum of five days and a maximum of 30 days in blocks of time of at least three hours. An exemption from the three hour block requirement will be made for academic programs for which course credit is given; however, if the training is presented over a period longer than 30 days (in shorter time blocks), an additional hour shall be added for each additional week. Under no circumstances shall the training period exceed 120 days.
- (d) Breaks. Trainers shall provide appropriate breaks during their training sessions which shall be in addition to the number of required hours for training. For every hour of training, five minutes of break time must be added. In addition, during each day which lasts over six hours, there must be a minimum of 30 minutes provided for a meal or extended break.

2.02 Course Content Requirements

- (a) Learning Objectives. Training programs shall incorporate the appropriate learning objectives for the type of certified program offered, as specified:
 - (1) County mediation programs shall cover all objectives set forth in section 3.01.
 - (2) Family mediation programs shall cover all objectives set forth in section 3.02.
 - (3) Circuit Civil mediation programs shall cover all objectives set forth in section 3.03.
 - (4) Dependency mediation programs shall cover all objectives set forth in section 3.04.
- (b) Submission of Training Materials. When applying for certification and renewal, training programs shall provide the Center with all training materials which will be used in the training program. These materials shall include, but are not limited to, the following: the training manual that is given to the participants including the required readings; all exercises and handouts including exercises for reducing an agreement to writing and for completing a financial affidavit including child support calculations (if applicable); written exams (if any); and a copy of all role plays. Revisions, deletions and/or additions to the training materials must be reported to the Center prior to any course offering.
- (c) Agenda Approval. Training programs must seek approval from the Center 14 days in advance of each offering of a certified mediation training program by submitting a detailed program agenda. The agenda shall be reviewed by the Center for compliance

with the training standards. The agenda must be submitted in a format as to easily identify the presentation topic, the trainer(s) for each topic, the time allotted to each topic, the learning objectives covered under each topic, any required activities (e.g., writing agreement exercise, showing of video simulation, etc.) covered under the presentation topic, the trainers utilized for role play critiques and the inclusion of the required break minutes. Any deficiencies in the program agenda shall be corrected prior to the commencement of the training program. Failure to correct deficiencies is a violation of the training standards.

(d) Emergency Revisions. If special circumstances require revisions to the program agenda or the inclusion of additional trainers after the program agenda has been filed with the Center, those changes shall be submitted to the Center no later than three business days after the change becomes known to the training program. It is the responsibility of the training program to ensure that revisions made to the program are in accordance with the requirements of the training standards and that all trainers are approved and/or up to date on all qualifications prior to their participation in the program.

(e) Readings. All training programs must provide the participants with the required readings listed below. Time spent reading required materials shall not count towards the required number of hours of training and shall be completed by participants at times when the training program is not being conducted. Trainers shall incorporate some method of ensuring that the required readings are completed. To the extent that rules or statutes are amended or re-numbered, trainers shall ensure that the current rules are provided to the training participants.

(1) Chapter 44, Florida Statutes.

(2) Rules 1.700 - 1.750, Florida Rules of Civil Procedure.

(3) Florida Rules for Certified and Court-Appointed Mediators.

(4) Chapter 61, Florida Statutes (for family mediation program only).

(5) Chapter 415, Florida Statutes, sections 1034 (for family and dependency mediation programs only).

(6) Chapter 61, Florida Statutes, sections 61.13; 61.30; 61.401 - 405 (for dependency mediation program only).

(7) Chapter 39, Florida Statutes (for dependency mediation program only).

(8) Rule 8.290, Florida Rules of Juvenile Procedure (for dependency mediation program only).

(f) Additional Required Training Materials. In addition to the training materials detailed above, each dependency mediation training program shall provide the following additional materials:

(1) petition samples (shelter, dependency, and termination of parental rights (TPR));

(2) two case plan samples, including one with a goal of reunification and one with a goal of termination of parental rights;

(3) glossary of acronyms commonly used in dependency proceedings;

- (4) definition of key parties/participants;
 - (5) flow chart of a dependency proceeding according to statute;
 - (6) confidentiality disclosure form;
 - (7) sample order of referral to mediation;
 - (8) The Department of Children & Families Pre-Disposition Report (PDR) sample;
 - (9) Guardian ad Litem (GAL) sample report filed at disposition;
 - (10) judicial review sample filed by the Department of Children & Families; and
 - (11) sample mediation agreements.
- (g) Bibliography. A standard bibliography developed by the Center shall be included in the participant training materials provided by the program. It may be supplemented by the training provider.
- (h) Ethics Lecture. Training programs shall review with participants Rules 10.100 - 10.880, Florida Rules for Certified and Court-Appointed Mediators, in a continuous 90 minute block of time. In addition, ethics shall be woven throughout the program.

2.03 Training Methodology

- (a) Pedagogy. The program shall include, but is not limited to, the following: lecture, group discussion, written exercises, mediation simulations and role plays. In addition, outside readings shall be provided by the trainer to supplement the training. Programs shall provide to all participants the written course materials as outlined in section 2.02.
- (b) Written Exercises. At a minimum, written exercises shall include the reducing of an agreement to writing. For family mediation programs, written exercises shall include completion of a financial affidavit including child support calculations and reducing an agreement to writing. For 40 hour dependency mediation programs, written exercises shall include reducing to writing, agreements in at least one of the following areas: juvenile dependency, foster care or termination of parental rights. There is no written agreement exercise required for the 20 hour dependency mediation training.
- (c) Role Play Requirements. The objective of a role play is for a participant to develop confidence and experience. Trainers should be mindful in designing role plays that the scenarios not be too complex and multi-faceted. These role plays are to be conducted under the observation of a qualified primary trainer or assistant trainer. At the conclusion of each role play, a minimum of 15 minutes shall be allocated for both oral and written feedback to the mediator trainee. The written feedback shall be provided on a form designed or approved by the Center, which shall be provided to the participant at the conclusion of his/her role play as mediator. Specific requirements for role plays shall be as follows:
- (1) County Mediation Training Programs: At a minimum, every participant must take part in at least one continuous role play acting as the sole mediator and one continuous role play acting as the disputant. A continuous role play is defined as

one beginning with the mediator's opening statement and continuing to either resolution or the expiration of 45 minutes.

- (2) Family Mediation Training Programs: At a minimum, every participant must take part in at least one continuous role play acting as the sole mediator and one continuous role play acting as a spouse. A continuous role play is defined as one beginning with the mediator's opening statement and continuing to either resolution or the expiration of 60 minutes.
- (3) Circuit Civil Mediation Training Programs: At a minimum, every participant must take part in at least one continuous role play acting as the sole mediator and one continuous role play acting as a disputant, attorney or insurance representative. A continuous role play is defined as one beginning with the mediator's opening statement and continuing to either resolution or the expiration of 60 minutes.
- (4) Dependency Mediation Training Programs (40 hours): At a minimum, every participant must take part in at least one continuous multi-party role play acting as the sole mediator and one continuous multi-party role play acting as a parent or legal guardian. A continuous role play is defined as one beginning with the mediator's opening statement and continuing to either resolution or the expiration of 60 minutes. There is no participant role play requirement for the 20 hour dependency mediation training.

(d) Mediation Demonstration. All training programs shall present a role play mediation simulation (either live or by video) prior to the participant's role play experience as the mediator.

2.04 Trainer Qualifications

(a) County Court Mediation Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.

- (1) Primary Trainer: In order to be approved as a primary trainer, a trainer must demonstrate the following qualifications:
 - A. Mediation Training Received: Successful completion of a minimum of 20 hours of mediation training.
 - B. Mediation Experience: Participation in a minimum of 20 court-connected mediation conferences (or their equivalent) as the mediator with a minimum of four county court-connected mediation conferences as the mediator or as an observer within the last two years.

- C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
 - D. Training Delivery Experience:
 - (i) Participation as a primary trainer or assistant trainer in a minimum of five distinct county mediation training programs deemed to be the equivalent of a Supreme Court certified county mediation training program.
 - (ii) Participation as a role play critiquer in a minimum of two county mediation training programs.
 - (iii) Participation as a lecturer in a minimum of two county mediation training programs.
- (2) Assistant Trainer: In order to be approved as an assistant trainer, a trainer must demonstrate the following qualifications:
- A. Mediation Training Received: Successful completion of a minimum of 20 hours of mediation training.
 - B. Mediation Experience: Participation in a minimum of 10 court-connected mediation conferences (or their equivalent) as the mediator with a minimum of four county court-connected mediation conferences as the mediator or as an observer within the last two years.
 - C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
- (3) Subject Matter Specialist: Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process.
- (4) Renewing or Reinstating Approval as an Assistant or Primary Trainer: Once approved, an assistant or primary trainer must demonstrate the following qualifications irrespective of whether such approval has lapsed:
- A. Participation in a minimum of five county court-connected mediation conferences as the mediator or as an observer within the last two years.

- B. Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.

(b) Family Mediation Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.

(1) Primary Trainer: In order to be approved as a primary trainer, a trainer must demonstrate the following qualifications:

- A. Mediation Training Received: Successful completion of a minimum of 40 hours of family mediation training.
- B. Mediation Experience: Participation in a minimum of 50 complete Florida family mediation conferences (or their equivalent) as the mediator with a minimum of four Florida family mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.
- C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
- D. Training Delivery Experience:
 - (i) Participation as a primary or assistant trainer in a minimum of five distinct family mediation training programs deemed to be the equivalent of a Supreme Court certified family mediation training program.
 - (ii) Participation as a role play critiquer in a minimum of two family mediation training programs.
 - (iii) Participation as a lecturer in a minimum of two family mediation training programs.

(2) Assistant Trainer: In order to be approved as an assistant trainer, a trainer must demonstrate the following qualifications:

- A. Mediation Training Received: Successful completion of a minimum of 40 hours of family mediation training.

- B. Mediation Experience: Mediation of a minimum of 20 Florida family mediation conferences (or their equivalent) as the mediator with a minimum of four family mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.
 - C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
- (3) Subject Matter Specialist: Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process. Lectures on family law must be presented by a Florida attorney with at least five years of family law practice. Lectures on psychological issues in separation and divorce, family dynamics, and needs of children must be presented by a master or doctoral level mental health professional¹ or a licensed mental health professional (see Chapters 490 - 491, Florida Statutes).
- (4) Renewing or Reinstating Approval as an Assistant or Primary Trainer: Once approved, an assistant or primary trainer must demonstrate the following qualifications irrespective of whether such approval has lapsed:
- A. Participation in a minimum of five Florida family (non-circuit) mediation conferences as the mediator or as an observer within the last two years.
 - B. Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
- (c) Circuit Civil Mediation Training Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.
- (1) Primary Trainer: In order to be approved as a primary trainer, a trainer must demonstrate the following qualifications:
- A. Mediation Training Received: Successful completion of a minimum of 40 hours of mediation training.

¹ Mental health defined as social work, psychology or psychiatry. Does not include masters in sociology or divinity.

- B. Mediation Experience: Participation in a minimum of 50 complete Florida circuit civil (non-family) mediation conferences (or their equivalent) as the mediator with a minimum of four Florida circuit civil (non-family) mediations (or their equivalent) as the mediator or as an observer within the last two years.
 - C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
 - D. Training Delivery Experience:
 - (i) Participation as a primary trainer or assistant trainer in a minimum of five distinct mediation training programs which were the equivalent of a Supreme Court certified circuit civil (non-family) mediation training program.
 - (ii) Participation as a role play critiquer in a minimum of two circuit civil mediation training programs.
 - (iii) Participation as a lecturer in a minimum of two circuit civil mediation training programs.
- (2) Assistant Trainer: In order to be approved as an assistant trainer, a trainer must demonstrate the following qualifications
- A. Mediation Training Received: Successful completion of a minimum of 40 hours of mediation training.
 - B. Mediation Experience: Mediation of a minimum of 20 Florida circuit civil (non-family) mediation conferences (or their equivalent) as the mediator with a minimum of four circuit civil (non-family) mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.
 - C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
- (3) Subject Matter Specialist: Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process.

- (4) Renewing or Reinstating Approval as an Assistant or Primary Trainer: Once approved, an assistant or primary trainer must demonstrate the following qualifications irrespective of whether such approval has lapsed:
- A. Participation in a minimum of five Florida circuit civil (non-family) mediation conferences as the mediator or as an observer within the last two years.
 - B. Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.

(d) Dependency Mediation Training Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.

- (1) Primary Trainer: In order to be approved as a primary trainer, a trainer must demonstrate the following qualifications:
- A. Mediation Training Received: Successful completion of a Supreme Court of Florida certified dependency mediation training.
 - B. Mediation Experience: Participation in a minimum of 20 complete Florida dependency mediations (or their equivalent) as the mediator with a minimum of four Florida dependency mediations (or their equivalent) as the mediator or as an observer within the last two years.
 - C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
 - D. Training Delivery Experience:
 - (i) Participation as a primary or assistant trainer in a minimum of five distinct family, circuit or dependency mediation training programs deemed to be the equivalent of a Supreme Court of Florida certified family, circuit or dependency mediation training program.
 - (ii) Participation as a role play critiquer in a minimum of two family, circuit or dependency mediation training programs.

- (iii) Participation as a lecturer in a minimum of two family, circuit or dependency mediation training programs.
- (2) Assistant Trainer: In order to be approved as an assistant trainer, a trainer must demonstrate the following qualifications:
 - A. Mediation Training Received: Successful completion of a Supreme Court of Florida certified dependency mediation training.
 - B. Mediation Experience: Mediation of a minimum of 10 complete Florida dependency mediations (or their equivalent) as the mediator with a minimum of four Florida dependency mediations (or their equivalent) as the mediator or as an observer within the last two years.
 - C. Continuing Education: Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training program does not qualify toward the required continuing mediator education for trainers.
- (3) Subject Matter Specialist: Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process. Lectures on Florida Dependency Law must be presented by a Florida attorney with dependency experience. Lectures on Family Dynamics and Psychological Issues and Issues Concerning the Needs of Children in the Context of Dependency Proceedings must be presented by a master or doctoral level mental health professional² or a licensed mental health professional (see Chapters 490 - 491, Florida Statutes).
- (4) Renewing or Reinstating Approval as an Assistant or Primary Trainer: Once approved, an assistant or primary trainer must demonstrate the following qualifications irrespective of whether such approval has lapsed:
 - A. Participation in a minimum of five Florida complete dependency mediation conferences as the mediator or as an observer within the last two years.
 - B. Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a certified mediation training

² Mental health defined as social work, psychology or psychiatry. Does not include masters in sociology or divinity.

program does not qualify toward the required continuing mediator education for trainers.

2.05 Trainers - Miscellaneous

- (a) Attendance. The attendance requirement for a certified mediation training program is two-fold:
 - (1) A primary trainer must be in attendance during the entire training program. It is preferable that a single primary trainer fulfill this obligation, but it is permissible that this be accomplished by more than one primary trainer; and
 - (2) To ensure continuity and answer questions, at least one trainer (primary or assistant) must attend the entire program.
- (b) Role Play Critiquing. It is the responsibility of the training program to see that any trainer who will be critiquing role plays reviews the critique videotape provided by the Center and returns the Center's verification form no later than 14 days from the conclusion of the program.

2.06 Student: Faculty Ratio

- (a) Class Size. Class size shall be limited to 40 participants.
- (b) Role Play Observations. A trainer shall observe no more than one role play group at a time. Role play refers to the "continuous" role play requirement as outlined in section 2.03(c) and does not apply to the use of role plays to practice a single component of a mediation such as the opening statement or caucus.

2.07 Participant Attendance

Participants must complete their training requirement by attending one entire training program. The training program, in conjunction with a primary trainer, is responsible for ensuring that the integrity of each portion of the program is not compromised. Under no circumstances may a participant be excused from attending portions of the training due to scheduled appointments or obligations (e.g. doctor appointments, hearings, court appearances, or conference calls). Any portion of training missed shall be made up as directed by the trainer. If a participant misses any portion or portions of the training program which compromise(s) the integrity of the program, the training program shall require the participant to repeat an entire program.

2.08 Notice of Training

The Center shall be timely notified of the dates for any certified mediation training program.

2.09 Completion of Training

- (a) Reporting Requirements. A training program shall provide, at the conclusion of the training, written documentation of completion to participants who successfully complete the program and shall submit the list of successful participants with their addresses and social security numbers to the Center within 14 days of course completion. Successful completion of the program is defined as:
- (1) the attendance by the participant of the complete training program;
 - (2) completion of all requirements; and
 - (3) effective demonstration of the skills necessary to become a mediator.
- (b) Remedial Training. It is the responsibility of the training program to delineate a specific remedial course of action for participants who do not successfully complete the program.
- (c) Program Evaluations. Each participant shall evaluate the training program on a form designed by the Center. Training programs shall submit to the Center a compilation of the evaluations on a form designed by the Center within 14 days of the completion of the program.
- (d) Audit Forms. Each participant shall evaluate the training program on an audit form at the conclusion of the program. Training programs shall submit to the Center a collection verification form and all of the original audit forms within 14 days of the completion of the training program. The individual program evaluations shall be retained by the training program for potential audit. The training program shall provide the evaluations to the Center upon request.

2.10 Modifications

Any mediation training program certified by the Supreme Court of Florida as meeting the standards outlined herein shall be certified for a period of three years. During such time, training programs shall provide the Center with any and all changes made to training materials, including any modifications and updates of information. The Center will review these amendments and determine if such substantial changes have been made to render the program a new program requiring separate certification.

2.11 Records

- (a) The individual program evaluations referenced in section 2.09(c) shall be retained by the training program for no less than three years.
- (b) Except for the individual program evaluations referenced in section 2.09(c), all other training records and materials shall be retained for no less than five years.

2.12 Renewals

To ensure continued uninterrupted certification, application for renewal by the Supreme Court may be submitted up to one year before certification expires.

2.13 Advertising

All advertisements shall be truthful. A training program may state that it is certified by the Supreme Court of Florida. It shall be clear from the statement that the program itself and not the trainer, mode of its presentation or location has been certified by the court.

Part III Learning Objectives

3.01 County Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) 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.

(b) Court Process

- (1) Understand the route and manner by which a case is referred to mediation.
- (2) Explain the consequences of a mediated agreement as well as a failure to reach agreement.

- (3) Identify the state rules, state statutes and local procedures and forms governing county court mediation, including small claims court, and understand the applicable provisions of each.
- (4) Demonstrate awareness of the American with Disabilities Act (ADA) requirements and strategies for handling situations when faced with disability issues or special needs.
- (5) Know the contents of the literature describing the county court mediation program which is provided to the parties in advance of the mediation hearing.
- (6) Know the various types of disputes which may be presented in county court.
- (7) Understand the constraints on confidentiality and be able to identify the exclusions (both as relates to the entire mediation and the separate session).
- (8) Understand mentorship and application for certification requirements.
- (9) Understand the difference between mediation pursuant to court order and pre-suit or voluntary mediation.

(c) *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 disputant 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 in 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 or permitted 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 which 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 (GAL).
- (14) Identify and demonstrate techniques a mediator may use to assist a party in reconsidering his/her position on a particular proposal.
- (15) Demonstrate when to use various persuasion techniques.
- (16) Identify the circumstances under which issues are appropriate for discussion in joint session and those which should first be discussed in separate session ("caucuses").
- (17) Understand and demonstrate how to use separate sessions and how to introduce them to the parties.
- (18) Identify appropriate techniques for mediating with multiple parties.
- (19) Identify appropriate techniques for handling a situation where individual(s) present do not have authority to settle.
- (20) Identify appropriate techniques for mediating cases in which one or more parties are represented by attorneys.

- (21) 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).

(d) *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 the 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.

(e) *Standards of Conduct/Ethics for Mediators*

- (1) Identify potential ethical dilemmas in the county 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 a 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.
- (f) *Community Resources and Referral Process*
- (1) Understand and identify when and how to use outside experts effectively or how to assist the parties in deciding on 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.

(g) 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 and demonstrate the ability to deal appropriately with such issues.
- (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.

3.02 Family Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) 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, arbitrators and guardians ad litem (GAL).
- (6) Understand that mediation involves empowerment.

(b) *Court Process*

- (1) Understand the route and manner by which a case is referred to mediation.
- (2) Understand the difference between 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.

(c) *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, 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 satisfied 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 or permitted 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 and 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).

(d) *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 the use of 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.

(e) *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 a 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 statutory constraints of mediating cases where domestic violence exists.
- (10) Understand the ethical constraints on confidentiality and identify the exclusions both in relation to the entire mediation and the separate session.
- (11) Understand the issue of confidentiality as it relates to child abuse and spouse abuse.
- (12) Understand the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.
- (13) 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.
- (14) 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.
- (15) 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.
- (16) Understand the mediator's ethical obligations regarding advertising and billing practices.
- (17) 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.

(18) Understand a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.

(19) Understand that a mediator shall promote awareness by the parties of the interest of persons affected by actual or potential agreements who are not represented at mediation.

(20) Understand the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators.

(f) Community Resources and Referral Process

(1) Understand and identify when and how to use outside experts effectively or how to assist the parties in deciding on 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.

(4) Understand when to refer parties to services for child protection, domestic violence, or elder abuse (e.g., Department of Children & Families, GAL).

(5) Develop a list of social service resources for domestic violence situations.

(g) 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.

(h) 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.

(i) 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.

(j) Florida Family Law

Understand the following concepts as they relate to family mediation:

- (1) geographic relocation;
- (2) equitable distribution;
- (3) shared parental responsibility law including:
- (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.

(k) *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.

3.03 Circuit Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) 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.

(b) Negotiation Dynamics

- (1) Understand the issues of settlement authority, mind set and hidden agendas as they relate to institutional litigants.

- (2) Understand how to mediate with insurance corporate representatives.
- (3) Understand how an insurance carrier assesses its interest in a case.
- (4) Understand the relationship of a defense attorney and his/her client to the client's insurance carrier.
- (5) Recognize common negotiation techniques and tactics and demonstrate how to handle them.
- (6) Understand basic insurance nomenclature.

(c) *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 circuit civil 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) Know the distinction between circuit civil and county court mediation rules.
- (7) Understand and explain how mediation confidentiality and Chapter 286 (Sunshine Law) impact each other in mediation involving public entities.
- (8) Understand the constraints on confidentiality and be able to identify the exclusions (both as relates to the entire mediation and the separate session).
- (9) Understand mentorship and application for certification requirements.

(d) *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 in 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 or permitted 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) Identify and demonstrate techniques a mediator may use to assist a party in reconsidering his/her position on a particular proposal.
- (15) Demonstrate when to use various persuasion techniques.

- (16) Identify and demonstrate techniques to obtain closure and deal with unresolved legal issues.
- (17) Understand how to use substantive and procedural issues in the context of a mediation.
- (18) Understand and demonstrate how to use separate sessions (caucuses) and how to introduce them to the parties.
- (19) Distinguish the circumstances under which issues are appropriate for discussion in joint session from circumstances which require a separate session.
- (20) Identify appropriate techniques for mediating with multiple parties.
- (21) Identify appropriate techniques for handling a situation where individual(s) present do not have authority to settle.
- (22) Identify appropriate techniques for mediating cases in which one or more parties are not represented by attorneys.
- (23) 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).

(e) *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.

(f) *Standards of Conduct/Ethics for Mediators*

- (1) Identify potential ethical dilemmas in the circuit civil 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 a 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.

(g) 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.

(h) 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.

(i) Attorneys and Mediation

- (1) Understand the role of litigants' attorneys in the mediation process and the potential for conflicts.
- (2) Understand attorney-client relationship within the context of mediation.
- (3) Understand the need to establish credibility with attorneys and parties.
- (4) Identify and be sensitive to issues of attorneys' fees, fee shifting statutes and contingency fee arrangements.
- (5) Understand the use of private sessions with attorneys.
- (6) Understand the impact on the mediation process of identification of outstanding discovery issues and options for proceeding.
- (7) Understand the difference between mediation under court order and pre-suit or voluntary mediation.

3.04 Dependency Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) 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, parties, experts, mediators, arbitrators, guardians ad litem (GAL), attorney ad litem, Department of Children & Families and service providers.
- (6) Understand the empowerment issues in dependency mediation.

(b) Court Process

- (1) Understand the route and manner by which cases may be referred to juvenile court.

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

(c) *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 and participant 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 satisfied 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 in 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 or permitted 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 essential participants in the mediation conference as well as those who may be present.
- (14) Understand the special needs of the pro se party or participant.
- (15) Identify appropriate techniques for mediating cases in which a party or participant is represented by an attorney.
- (16) Identify and demonstrate techniques for a mediator to use to assist a party or participant 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 issues.
- (19) Identify and understand the circumstances in which issues are appropriate for discussion in joint session and those which should be discussed in separate session (caucus).
- (20) Demonstrate how to use separate sessions and how to introduce them to the parties.
- (21) Identify appropriate techniques for handling difficult situations (e.g., a party, participant or attorney: walks out, makes personal attacks on another party, participant; attorney or the mediator is not really engaged in the mediation; is very recalcitrant; is emotionally overwrought; is affected by substance abuse; or appears to be physically or mentally disabled or ill).

(22) Understand the dynamics of mediating with repeat parties and participants.

(23) Understand group dynamics of the mediation process as it relates to dependency mediation.

(d) *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 the substantive components that are part of dependency mediation agreements.

(7) Demonstrate ability to prepare a dependency mediation agreement.

(8) 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.

(9) Identify legalese and jargon which inhibit the communication process between the mediator, the parties and the participants.

(10) Develop an awareness that people differ in how they make decisions, how they process information and how they communicate.

(e) *Standards of Conduct/Ethics for Mediators*

(1) Identify potential ethical dilemmas in the dependency 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 the mediator's responsibility to the courts.

- (5) Understand whether parties involved in a 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.
- (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 issue of confidentiality as it relates to child abuse and spouse abuse, as well as, the statutory requirements for reporting such abuse.
- (11) Understand the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) Understand the mediator's ethical obligations regarding advertising and billing practices.
- (16) 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.
- (17) Understand a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.

- (18) Understand the limitations of the mediator in suggesting and identifying specific service providers and community resources.
- (19) Understand that ex-parte communication between the mediator and the party/participants about the specifics of the case are appropriate only as part of a separate session within the context of the mediation.
- (20) Understand the mediator's responsibility to promote the consideration of the interests of persons affected by actual or potential agreements and who are not present at mediation.
- (21) Understand the grievance procedure of the Florida Rules for Certified and Court-Appointed Mediators.

(f) Treatment Options and Community Resources

- (1) Understand how outside experts may be used effectively to evaluate and treat or provide assistance to child(ren), parents, families and others.
- (2) Understand how to assist the parties in deciding on appropriate community resources.
- (3) Understand the types of social services and community resources available through federal, state, local and private sources.
- (4) Understand the potential conflict if one expert serves as both evaluator and treatment provider.

(g) Diversity Issues

- (1) 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.
- (2) Identify techniques for mediating cases where there is a language barrier or when a translator participates in the mediation session.
- (3) Recognize personal biases, prejudices and styles which may be the product of one's background and personal experiences.

(h) Family Dynamics and Psychological Issues

- (1) Understand the effect separation (removal of the child(ren) or the alleged perpetrator from the home) has on individuals and family dynamics and the implications for the mediation process.

- (2) Identify and understand how emotions impact on dependency issues and a party's ability to participate effectively in mediation.
 - (3) Identify indicators of domestic violence.
 - (4) Understand the impact of parental conflict on the mediation process.
 - (5) Understand the impact domestic violence and abuse has on the parties and their capacity to participate meaningfully in the mediation session.
 - (6) Identify the dynamics of child abuse, neglect or abandonment.
 - (7) Understand the impact child neglect has on the parties and their capacity to participate meaningfully in the mediation session.
 - (8) Understand the impact child sexual abuse has on the parties and their capacity to participate meaningfully in the mediation session.
 - (9) Understand the impact child physical abuse has on the parties and their capacity to participate meaningfully in the mediation session.
 - (10) Understand the impact emotional/mental child abuse has on the parties and their capacity to participate meaningfully in the mediation session.
 - (11) Understand the dynamics of child(ren)'s disclosure and recantation and family members' denial and the impact these have on the mediation.
 - (12) Understand the impact grandparents, step-parents, foster parents and significant others have on family systems and the mediation process.
 - (13) Understand the impact mental illness or disability of a party or participant has on the family system, the child(ren)'s well being and the mediation.
- (i) *Issues Concerning the Needs of Children in the Context of Dependency Proceedings*
- (1) Understand the needs of child(ren) and the effect of removal or non-removal from the home on the child(ren) and on his/her 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 child(ren)'s well-being and behavior and recognize when and how to involve children in mediation.
 - (3) Understand child(ren)'s developmental stages.

- (4) Understand the impact of parental conflict on child(ren)'s well-being.
- (5) 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.
- (6) Understand the dynamics of disclosure/recantation relating to child sexual abuse.
- (7) Understand short- and long-term psychological effects of placement of a child(ren) in protective services, in foster care, in long term relative/ nonrelative placement, when parental rights have been terminated and/or in adoption.
- (8) Understand the importance of permanency and stability in a child(ren)'s life.

(j) *Florida Dependency Law*

- (1) Understand the Florida dependency mediation rules.
- (2) Understand the stages of a dependency case and the options available at each stage.
- (3) Understand the legal definitions of the following terms:
 - A. abandonment;
 - B. abuse;
 - C. neglect;
 - D. all other relevant section 39.01 definitions.
- (4) Understand the legal concepts of and interplay between the statutes and relevant rules dealing with mediation, dependency, and protection from abuse, abandonment and neglect.
- (5) Understand the implications of parents' right to counsel at every stage in the dependency proceedings.
- (6) Understand the interplay between other past, present, or possible future civil or criminal proceedings and the dependency mediation.
- (7) Understand grandparent rights which may arise in a dependency mediation.
- (8) Understand child support issues and implications in a dependency mediation.
- (9) Understand paternity issues as they relate to dependency proceedings.
- (10) Understand the implications of mediation at each stage.

(k) *Role of Dependency Proceeding Parties and Participants*

- (1) Understand the role of the GAL, the GAL attorney and the attorney ad litem in dependency cases and dependency mediation.
- (2) Understand the roles of Department of Children & Families staff in dependency cases and dependency mediation.
- (3) Understand the role of the parent's attorney in assessing the case, advising the parent (explaining legal rights and process), negotiating on behalf of the parent, minimizing the parent's liability and ensuring the parent's right to due process.
- (4) Understand the role of others who may participate in the mediation.

Part IV Mediation Training Review Board Procedures

4.01 Scope and Purpose

These procedures apply to all proceedings before all panels and committees of the Mediation Training Review Board involving the discipline of mediation training programs certified by the Supreme Court of Florida and the discipline of training program principals. The purpose of these procedures is to provide a means for enforcing the Mediation Training Standards and Procedures adopted by the Supreme Court of Florida.

4.02 Privilege to Train Mediators

Certification to train mediators confers no vested right to the holder thereof, but is a conditional privilege that is revocable for cause.

4.03 Mediation Training Review Board

- (a) Composition of Board. Eligible persons shall be appointed to the Board and serve at the pleasure of the Chief Justice of the Supreme Court. The Board shall be composed of:
 - (1) four circuit or county judges;
 - (2) three certified county mediators;
 - (3) three certified circuit civil mediators;
 - (4) three certified family mediators, at least two of whom shall be non-lawyers; and
 - (5) three certified dependency mediators, at least one of whom shall be a non-lawyer.

- (b) Board Chair. The members of the Board shall select a chair to serve for a period of two years.
- (c) Complaint Committee. Each complaint committee of the Board shall be composed of three members. A complaint committee shall cease to exist after disposing of all assigned cases. Each complaint committee shall be composed of:
 - (1) one judge or mediator who is a member of The Florida Bar, who shall act as the chair of the committee;
 - (2) one mediator who is certified in the area to which the complaint refers; and
 - (3) one other certified mediator.
- (d) Panel. Each panel of the Board shall be composed of five members. A panel shall cease to exist after disposing of all assigned cases. Each panel shall be composed of:
 - (1) one circuit or county judge, who shall serve as the chair;
 - (2) four certified mediators, at least one of whom shall be certified in the area in which the complaint arose.
- (e) Panel Vice-Chair. Each panel shall elect a vice-chair. The vice-chair shall act as the chair of the panel in the absence of the chair.

4.04 Jurisdiction

- (a) Complaint Committee. Each complaint committee shall have such jurisdiction and powers as are necessary to conduct the proper and speedy investigation and disposition of any complaint. The judge or attorney presiding over the complaint committee shall have the power to compel the attendance of witnesses, to take or to cause to be taken the depositions of witnesses, to order the production of records or other documentary evidence and the power of contempt. The complaint committee shall perform its investigatory function and have concomitant power to resolve cases prior to panel referral.
- (b) Panel. Each panel shall have such jurisdiction and powers as are necessary to conduct the proper and speedy adjudication and disposition of any proceeding. The judge presiding over each panel shall have the power to compel the attendance of witnesses, to take or to cause to be taken the depositions of witnesses, to order the production of records or other documentary evidence and the power of contempt. The panel shall perform the adjudicatory function, but shall not have any investigatory functions.
- (c) Contempt. Should any witness fail, without justification, to respond to the lawful subpoena of the complaint committee or panel or, having responded, fail or refuse to answer all inquiries or to turn over evidence that has been lawfully subpoenaed, or

should any person be guilty of disorderly or contemptuous conduct before any proceeding of the complaint committee or panel, a motion may be filed by the complaint committee or panel before the circuit court of the county in which the contemptuous act was committed. The motion shall allege the specific failure on the part of the witness or the specific disorderly or contemptuous act of the person which forms the basis of the alleged contempt of the complaint committee or panel. Such motion shall pray for the issuance of an order to show cause before the circuit court why the circuit court should not find the person in contempt of the complaint committee or panel and the person should not be punished by the court therefor. The circuit court shall issue such orders and judgments therein as the court deems appropriate.

4.05 Staff

The Center, excluding the person responsible for preparing complaints, shall provide all staff support to the Board necessary to fulfill its duties and responsibilities.

4.06 Complaint Process

- (a) **Initiation of Complaint.** A complaint may be initiated by an individual, hereinafter the complainant, or by the Center. The Center must file a complaint if it appears in the records of the training program that a standard has been violated. Any individual wishing to make a complaint alleging that a training program has violated one or more provisions of the standards shall do so in writing under oath. In either case, the complaint shall state with particularity the specific facts that form the basis of the complaint. No complaint shall be processed in relation to a training program which concluded more than three years prior to the complaint.
- (b) **Filing.** The complaint, if submitted by an individual, shall be filed with the Center.
- (c) **Assignment to Committee.** Upon verification of a complaint in proper form, the Center shall assign the complaint to a complaint committee within 10 days.
- (d) **Facial Sufficiency Determination.** The complaint committee shall convene, either in person or by conference call, to determine whether the allegation(s), if true, would constitute a violation of the standards. If the committee finds the complaint to be facially insufficient, the complaint shall be dismissed without prejudice and the complainant and the training program shall be so notified. If the complaint is found to be facially sufficient, the committee shall prepare a list of standards which may have been violated and shall submit such to the Center.
- (e) **Service.** The Center shall send a copy of the list of violations of the standards prepared by the complaint committee, a copy of the complaint and a copy of these procedures to the training program and the training program principals in question. Service on the

training program and the training program principals shall be made by registered or certified mail addressed to them at the location listed in the application for certification.

- (f) Response. Within 20 days of the receipt of the list of violations prepared by the complaint committee and the complaint, the training program and the training program principals shall send a written, sworn response to the Center by registered or certified mail. If the training program and any training program principal who has received the complaint do not respond, the allegations shall be deemed admitted as to that party and forwarded to the panel for imposition of sanctions.
- (g) Preliminary Review. Upon review of the complaint and any responses received, the complaint committee may find that no violation has occurred and dismiss the case. The complaint committee may also resolve the issue pursuant to subsection (i).
- (h) Appointment of Investigator. The complaint committee, after review of the complaint and response, may direct the Center to appoint an investigator to assist the complaint committee in any of its functions. Such person shall investigate the complaint and advise the complaint committee when it meets to determine the existence of probable cause. In the alternative to appointing an investigator, the complaint committee or any member or members thereof may investigate the allegations, if so directed by the committee chair. Such investigation may include, but is not limited to, meeting with the training program, the training program principals, the complainant or any combination thereof.
- (i) Complaint Committee Meeting with the Parties. Notwithstanding any other provision in this rule, at any time while the complaint committee has jurisdiction, it may meet with the training program and/or the training program principals in an effort to resolve the complaint. At the discretion of the complaint committee, the complainant may be asked to attend such meeting. The resolution may include sanctions if agreed to by the party accepting the sanctions. If sanctions are accepted, all relevant documentation shall be forwarded to the Center.
- (j) Review. If no other disposition has occurred, the complaint committee shall review the complaint, the response and any investigative report, including any underlying documentation, to determine whether there is probable cause to believe that the alleged misconduct occurred and would constitute a violation of the standards.
- (k) No Probable Cause. If the complaint committee finds no probable cause, it shall dismiss the complaint and so advise the Center, the complainant, the training program and the training program principals in writing.
- (l) Probable Cause Found. If probable cause exists, the complaint committee may draft formal charges and forward such charges to the Center for assignment to a panel. In the alternative, the complaint committee may decide not to pursue the case by filing a short

and plain statement of the reason(s) for non-referral and so advise in writing the Center, the complainant, the training program and/or the training program principals.

- (m) **Formal Charges and Counsel.** If the complaint committee, upon finding probable cause, refers a complaint to the Center, the complaint committee shall submit to the Center formal charges which shall include a short and plain statement of the matters asserted in the complaint and references to the particular sections of the standards involved. After considering the circumstances of the complaint and the complexity of the issues to be heard, the complaint committee may direct the Center to appoint a member of The Florida Bar to investigate and prosecute the complaint. Such counsel may be the investigator appointed pursuant to this section if such person is otherwise qualified.
- (n) **Dismissal.** Upon the filing of a request for dismissal signed by the complainant with the concurrence of the complaint committee, the complaint shall be dismissed.

4.07 Hearing Procedures

- (a) **Assignment to Panel.** Upon referral of a complaint and formal charges from a complaint committee, the Center shall assign the complaint and formal charges to a panel for hearing, with notice of assignment to the complainant, the training program and the training program principals. No member of the complaint committee shall serve as a member of the panel.
- (b) **Hearing.** The Center shall schedule a hearing not more than 90 days nor less than 30 days from the date of notice of assignment of the matter to the panel. There shall be a minimum of 30 days written notice of the scheduled panel hearing.
- (c) **Dismissal.** Upon the filing of a request for dismissal signed by the complainant with the concurrence of the panel, the action shall be dismissed.
- (d) **Procedures for Hearing.** The procedures for hearing shall be as follows:
 - (1) No hearing shall be conducted without five panel members being present.
 - (2) The hearing may be conducted informally but with decorum.
 - (3) The rules of evidence applicable to trial of civil actions apply but are to be liberally construed.
 - (4) Upon a showing of good cause to the panel, testimony of any party, witness or the Center may be presented over the telephone.
- (e) **Right of the Training Program and the Training Program Principals to Defend.** A training program and its training program principals shall have the right to defend against all charges and shall have the right to be represented by an attorney, to examine and cross-

examine witnesses, to compel the attendance of witnesses to testify, and to compel the production of documents and other evidentiary matter through the subpoena power of the panel.

- (f) Discovery. The Center shall, upon written demand of any party or any party's counsel of record made no later than 20 days prior to the scheduled hearing, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing, together with copies of all written statements and transcripts of the testimony of such witnesses in the possession of the counsel or the Center which are relevant to the subject matter of the hearing and which have not previously been furnished. Any party or any party's counsel shall, upon written demand of the counsel or the Center, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing, together with copies of all written statements and transcripts of the testimony of such witnesses in the possession of the training program, its training program principals, or their counsel which are relevant to the subject matter of the hearing and which have not previously been furnished. All discovery shall be completed 10 days prior to the scheduled hearing date.
- (g) Continuing Duty to Disclose. If, subsequent to compliance with subsections (e) or (f), the training program or the Center discovers additional witnesses or material that it would have been under a duty to disclose or produce at the time of the previous compliance, it shall promptly disclose or produce the witnesses or material in the same manner as required under the procedures for initial discovery.
- (h) Failure to Appear. Absent a showing of good cause, if the complainant or Center fails to appear at the hearing, the panel may dismiss the action for want of prosecution.
- (i) Training Program's Absence. If either or both the training program and its training program principals fail to appear, absent a showing of good cause, the hearing shall proceed.
- (j) Rehearing. If the matter is heard in the training program's and/or the training program principal's absence or if sanctions are imposed by the panel after a failure to respond pursuant to section 4.06(f), the training program and/or its training program principals may petition for rehearing, for good cause, within 10 days of the date of the hearing.
- (k) Recording. Any party shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings reported and transcribed by a court reporter at the party's expense.
- (l) Dismissal. Upon dismissal of formal charges by the panel, the panel shall promptly file a copy of the decision with the Center.

4.08 Sanctions

- (a) Generally. If, after the hearing, a majority of the panel finds that there is clear and convincing evidence to support a finding of a violation of the standards, the panel may impose one or more of the following sanctions:
- (1) Imposition of costs of the proceeding.
 - (2) Oral admonishment.
 - (3) Written reprimand.
 - (4) Additional training to participants at the expense of the training program and/or the training program principals.
 - (5) Restriction on type of training which can be offered in the future.
 - (6) Suspension for a period of up to 1 year.
 - (7) Decertification which shall include the loss of the privilege to make representations that the training program is certified by the Supreme Court of Florida.
 - (8) Such other sanctions as are agreed to by the training program, the training program principals and the panel.
- (b) Failure to Comply. If there is reason to believe that the training program or the training program principals failed to timely comply with any imposed sanction, a hearing shall be held before a panel convened for that purpose within 60 days of the date when the Center learned of the alleged failure to comply. A finding of the panel that there was a failure to substantially comply with any imposed sanction shall result in the decertification of the training program.
- (c) Decision to be Filed. Upon making a determination that discipline is appropriate, the panel shall promptly file with the Center a copy of the decision including findings and conclusions certified by the chair of the panel. The Center shall promptly mail to all parties notice of such filing, together with a copy of the decision.
- (d) Notice. The Center shall notify all trial court administrators and mediation program directors of any training program which has been decertified or suspended unless otherwise ordered by the Supreme Court of Florida.
- (e) Publication. Upon the imposition of sanctions, the Center shall publish the name of the training program and the training program principals, a short summary of the standard or standards which were violated, the circumstances surrounding the violation and any sanctions imposed.

- (f) Future Certification. A training program which has been decertified may apply to be eligible for certification. Except as otherwise provided in the decision of the panel, no petition may be filed within two years after the date of decertification. The procedure shall be as follows:
1. A petition, together with five copies, shall be written, verified by the training program and filed with the Center.
 2. The petition shall contain:
 - A. the name and address of the training program;
 - B. the offense or misconduct upon which the decertification was based, together with the date of such decertification; and
 - C. a concise statement of facts claimed to justify eligibility for certification.
 3. The Center shall refer the petition to a panel for review.
 4. The panel shall review the petition and, if the training program is found to be unfit to provide mediation training, the petition shall be dismissed. Successive petitions based upon the same grounds may be reviewed without a hearing. If the training program is found fit to provide mediation training, the panel shall notify the Center that the training program may apply for certification.

4.09 Subpoenas

- (a) Issuance. Subpoenas for the attendance of witnesses and the production of documentary evidence for discovery and for the appearance of any person before a complaint committee, a panel, or any member thereof, may be issued by the chair of the complaint committee or panel or, if the chair of the panel is absent, by the vice chair. Such subpoenas may be served in any manner provided by law for the service of witness subpoenas in a civil action.
- (b) Failure to Obey. Any person who, without good cause, fails to obey a duly served subpoena may be cited for contempt of the committee or panel in accordance with section 4.04(c).

4.10 Confidentiality

- (a) Generally. Until formal charges are filed, all proceedings shall be confidential. Upon filing of formal charges, such charges and all further proceedings shall be public.

Sanctions as provided for in 4.08(a)(4-7), when agreed to under 4.06(i) shall not be confidential.

- (b) Witnesses. Each witness in every proceeding under these disciplinary standards shall be sworn to tell the truth and not disclose the existence of the proceeding, the subject matter thereof, or the identity of the training program, the training program principals, or person providing training for such program until the proceeding is no longer confidential under these disciplinary procedures. Violation of this oath shall be considered an act of contempt of the complaint committee or the panel.
- (c) Papers to be Marked. All notices, papers and pleadings mailed prior to formal charges being filed shall be enclosed in a cover marked "Confidential."
- (d) Breach of Confidentiality. Violation of confidentiality by a member of the Board shall subject the member to removal by the Chief Justice of the Supreme Court of Florida.

4.11 Disqualification of Members of a Panel or Complaint Committee

- (a) Procedure. In any case, any party may at any time before final disciplinary action file a motion in the case that a member of the Board before which the case is pending, or some person related to that member, is a party to the case or is interested in the result of the case or that the member is a material witness for or against one of the parties to the case.
- (b) Facts to be Alleged. A motion to disqualify shall allege the facts relied on to show the grounds for disqualification and shall be verified by the party.
- (c) Time for Motion. A motion to disqualify shall be made within a reasonable time after discovery of the facts constituting grounds for disqualification.
- (d) Action by Chair. The chair of the complaint committee or panel shall determine only the facial sufficiency of the motion. The chair shall not pass on the truth of the facts alleged. The test for facial sufficiency shall be whether any well-founded allegations raise a serious question as to whether a panel or complaint committee member would consider the matters fairly. If the motion is facially sufficient, the chair shall enter an order of disqualification and the disqualified complaint committee or panel member shall proceed no further in the action. In the event that the chair is the challenged member, the vice chair shall perform the acts required under this subdivision.
- (e) Automatic Disqualifications. A member of the Board shall be disqualified from serving on a complaint committee or panel proceeding:
 - (1) which involves a training program in which the member has served as training faculty within two years of the filing of the complaint;

- (2) if the Board member has been promised work with the training program which is under investigation;
 - (3) if the Board member has any current or past business, representation or consulting relationship with the training program which is under investigation; or
 - (4) if the Board member has personal relationships which might impinge on his or her objectivity relating to the training program which is under investigation.
- (f) Recusals. Nothing in this rule limits a Board member's right of self-recusal.
- (g) Replacement. The Center shall assign a Board member to take the place of any disqualified or recused member.

4.12 Right of Review

Any training program or training program principal found to have committed a violation of these standards shall have a right of review of the action taken by the panel. Review of this type shall be under the jurisdiction of the Chief Justice of the Supreme Court of Florida. Notice of review shall be filed with the Center. There shall be no right of review of any resolution reached pursuant to section 4.06(i).