

SYLLABUS/AGENDA

FALL 2018 COUNTY MEDIATION CLINIC

And Florida Supreme Court County Mediation Training

Robin Davis

Senior Legal Skills Professor

University of Florida

Fredric G. Levin College of Law

105-H Bruton Geer Hall, Virgil Hawkins Clinic

P.O. Box 117626

Gainesville, FL 32611-7626

e-mail davisr@law.ufl.edu

Ph. 352-273-0807 Fax 352-392-0414

3 Credit Hours

6940

Meet in Room 283 & 284 Holland Hall

Fridays 8:00 am – Noon

Office Hours at Virgil Hawkins Clinics: Tuesdays 9:30 a.m.–11:30 a.m. and 1:30 p.m.-3:30p.m.

Other times by appointment

Required Texts: *Getting to Yes: Negotiating Agreement Without Giving In* by Fisher, Ury, and

Patton (Read in full by the first day of class); *County Mediator's Manual* (available for sale in

law school book store only); Various supplemental materials will either be provided to you or

posted on Canvas.

TEXTS, MATERIALS, and OBJECTIVES

The *County Mediator's Manual* by Sharon Press and Kimberly Kosch and *Getting to Yes: Negotiating Agreement Without Giving In* by Fisher, Ury, and Patton are both

assigned for the course. Please read **Getting to Yes** in its entirety as soon as possible; the class will refer to it throughout the course. Readings will be assigned throughout the course in the **Mediator's Manual**. Various supplemental materials and assignments will be provided to you. At the end of the course, each student shall have the knowledge and requirements to become Florida Supreme Court County Mediators

WORKLOAD REQUIREMENT FROM ABA STANDARD 310

The Mediation Clinic is a unique experience. During the semester, expect to devote approximately 120 minutes to out-of-class preparation for every hour of in-class instruction. Since the course has 3 “classroom hours” of in-class instruction each week, this requires at least 6 hours of preparation outside of class. Your actual number of hours will vary weekly. This requirement conforms to American Bar Association Standard 310.

GRADING

This course is graded on an S/U basis. University of Florida grading policies can be found at <http://www.registrar.ufl.edu/catalog/policies/regulationgrades.html>

Students will be expected to fulfill attendance requirements and complete all assignments satisfactorily to receive an S grade.

U MATTER

Your well-being is important to the University of Florida. The U Matter, We Care initiative is committed to creating a culture of care on our campus by encouraging members of our community to look out for one another and to reach out for help if a member of our community is in need. If you or a friend is in distress, please contact umatter@ufl.edu so that the U Matter, We Care Team can reach out to the student in distress. A nighttime and weekend crisis counselor is available by phone at 352-392-1575. The U Matter, We Care Team can help connect students to the many other helping resources available including, but not limited to, Victim Advocates, Housing staff, and the Counseling and Wellness Center. Please remember that asking for help is a sign of strength. In case of emergency, call 9-1-1.

ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

Students requesting classroom accommodation must first register with Dean Inman in the law school's Student Affairs Office. She will provide documentation to the student who must provide this documentation to the Instructor when requesting accommodation.

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

GETTING HELP

Resources available:

- Counseling and Wellness resources

- Disability resources
- Resources for handling student concerns and complaints
- Library Help Desk support

Should you have any complaints with your experience in this course please visit <http://www.distance.ufl.edu/student-complaints> to submit a complaint.

COURSE SCHEDULE AND ATTENDANCE REQUIREMENTS

Florida Supreme Court Rules require attendance for all of the required certification training, our intensive seminar for this course. I will take roll and certify that all participants meet this attendance requirement. For the remainder of the course, Standard 304 d of the ABA Standards for the Approval of Law Schools, which requires “regular and punctual class attendance” governs. Note that mandatory attendance is required by the Supreme Court for all classroom training sessions.

The beginning of the term will provide our intensive seminar and supply the instruction required to earn Supreme Court certification as a county mediator. This period provides the intensive instruction in mediation theory, procedure, ethics, and skills that enable us to participate in the Court=s Volunteer Small Claims Mediation Program during the remainder of the semester. These classes have been authorized by the Florida Supreme Court as sufficient to permit county mediation certification (along with other requirements) and are mandatory. We will use our regularly scheduled class times and may also arrange additional class times that do not conflict with your other courses. One or multiple sessions may be scheduled on any date(s) during training. You will need to be flexible with non-academic obligations during this period.

Interwoven throughout the term, we will be at the Alachua County Civil Courthouse for the mentoring phase of the certification process. We will attend the Small Claims Dockets on scheduled Friday mornings to both observe mediations as well as co-mediate cases in fulfillment of the Supreme Court mentorship requirements.

USE OF PERSONAL TECHNOLOGY IN THE CLASSROOM

The Clinic is a very interactive class, and your absolute attention and participation is essential. Furthermore, the classroom environment must support learning for all students, and technological devices may be distracting to individuals in the class and thus undermine that goal. Accordingly, in addition to other professional conduct and courtesies, **PLEASE DO NOT USE YOUR LAPTOPS NOR CELL PHONES NOR OTHER ELECTRONIC OR COMMUNICATION DEVICES IN CLASS UNLESS REQUESTED BY THE PROFESSOR.**

REFLECTION PAPERS

Students will document two of their observation or co-mediation experiences in a single Reflection Paper. The Reflection Paper (hard copy) is due to me at the beginning of the last day of class but may be turned in earlier.

Each student will observe and co-mediate a number of court-ordered county mediations during the semester and will write **one** Reflection Paper about two of the cases. This paper should be 4 - 5 double spaced typed 8 ½ x 11 inch pages.

Generally, Reflection Papers should give specific examples of and reflections about the experience you had observing or co-mediating. They should describe what happened that was significant, why it was important, and what you think about it. Your paper should include a brief summary of the basic “facts” of the cases (what happened, parties’ positions, underlying interests), but I am most interested in learning about your reaction to, concerns about, and analysis of the mediation process. Be sure to maintain confidentiality by not revealing any names or other identifying information about the parties.

If you observe a mediator doing something that gives you pause, it is usually instructive to tactfully ask the mediator about it in the post-mediation discussion, however, NEVER CRITICIZE YOUR MEDIATOR.

Your Reflection Paper should focus primarily on 2 things:

1. The Parties’ Behaviors and Motivations, such as:
 - A. Did the parties seem to have “equal” bargaining power?
 - B. If the parties were represented, how did the attorney(s) affect the mediation?
 - C. Did any issue "cloud" or "taint" the parties' objectivity during the mediation?
 - D. What were the parties’ positions?
 - E. What were the parties’ interests?
 - F. Any cultural considerations or gender related issues that arose during the mediation.
 - G. How was the negotiation - Distributive? Integrative? Principled?
 - H. How satisfied, or not satisfied, was each party at the end of the mediation?
Why or why not?
2. The Mediator's Action Choices, such as:
 - A. What the mediator did that was effective and why it was effective?
 - B. What the mediator did that was not effective and why it was not successful?
 - C. How ineffective action choices could have been improved and why these suggestions are likely to prove more effective in similar future situations?
 - D. Were any “ethical dilemmas” encountered during the mediation? If so, how did the mediator deal with them?
 - E. What were the decisive or turning points in the mediation, and why were they critical?

F. What the mediator did that impressed you most; what the mediator did that bothered you most?

G. What surprised you during the mediation?

H. Mediators differ widely in their approaches; what were the pluses and minuses of your mediator's style?

AGENDA AND ASSIGNMENTS FOR CERTIFIED TRAINING

Including Learning Objectives for Each Session

Note – All reading assignments in your Manual refer to the white pages unless specified otherwise. One or multiple sessions may be scheduled on any date(s) during training.

SESSION ONE: BEGINNING THE TRAINING (Read *Getting to Yes* and pp. 1- 6 Manual) FRIDAY JANUARY 12, 2018 AT 8:30 A.M. ROOM 204 ALACHUA COUNTY CIVIL AND FAMILY COURTHOUSE 201 E. UNIVERSITY AVENUE

Sign-in sheet

Introductions

Review all course materials

Supreme Court Certified County Mediation Training Requirements*

Bibliography*

Chapter 44, Florida Statutes*

Chapter 415-1034 (Florida Statutes)*

Chapter 39 201-206*

Rules 1.700 - 1.750 Florida Rules of Civil Procedure*

Florida Rules for Certified and Court-Appointed Mediators*

Part I - Mediator Qualifications

Part II - Standards of Professional Conduct -

Ethical Code

Part III - Discipline

Supreme Court Administrative Order AOSC11-11*

In RE: Rules Governing Certification of Mediators

Agenda

Mediator's Manual

Review attendance requirements and final evaluation/audit

Confidentiality

Review Course Objectives and Expectations

Show DRC Certification Process Overview Video

Note – items denoted with * are included in Manual Appendices

SESSION TWO: INTRODUCTION TO CONFLICT RESOLUTION CONCEPTS IN COUNTY COURT MEDIATION

Objectives:

Explain the difference between the following methods of dispute resolution: negotiation, mediation, arbitration (binding and non-binding), early neutral evaluation, and litigation. **[3.01(a)(1)]**

Identify the strengths and weaknesses of various dispute settlement methods. **[3.01(a)(2)]**.

Identify and demonstrate the basic principles of negotiation. **[3.01(a)(3)]**.

Distinguish between the professional roles and responsibilities of judges, lawyers, experts, mediators and arbitrators. **[3.01(a)(4)]**.

Recognize the importance of party empowerment and self-determination in county court mediation. **[3.01(a)(5)]**.

SESSION THREE: MEDIATION OVERVIEW AND COMPONENTS OF A MEDIATION (BADGE); ROLE PLAY SIMULATION (Stulberg County Mediation Simulation DVD)

Objective:

Identify components of a mediation [3.01(c)(1)]

Explain and demonstrate the role of the mediator in conducting a mediation 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. **[3.01(c)(2)]**

Explain the importance of and demonstrate building rapport, establishing trust, setting a cooperative tone, maintaining neutrality and impartiality, listening and questioning, promoting party empowerment and remaining non-judgmental. **[3.01(c)(3)]**

SESSION FOUR: MEDIATION PROCESS AND TECHNIQUES; BEGINNING THE MEDIATION; OPENING STATEMENT (Read pp. 7 - 42 Manual)

Objectives:

Identify procedural elements which should be addressed prior to entry of the parties into the mediation room, including seating of parties and set-up of the room. **(3.01(c)(4))**

Identify appropriate techniques for handling difficult or dangerous situations **[3.01(c)(21)]**.

Demonstrate an appropriate opening statement **[3.01(c)(5)]**.

Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs. **[3.01(b)(4)]**.

Identify and demonstrate essential elements for effective listening and responding. **[3.01(d)(1)]**.

Identify and demonstrate essential elements for effective note-taking. **[3.01(d)(2)]**.

Identify and demonstrate essential elements for effective questioning. **[3.01(d)(3)]**.

Identify and demonstrate appropriate non-verbal communication. **[3.01(d)(4)]**.

Demonstrate the ability to communicate in an understandable manner with the parties and participants and avoid the use of legalese and jargon which inhibit the communication process. **[3.01(d)(6)]**.

Identify potential ethical dilemmas. **[3.01(e)(1)]**.

Discuss appropriate courses of action when confronted with an ethical dilemma. **[3.01(e)(2)]**.

Discuss the mediator's ethical responsibilities with respect to confidentiality. **[3.01(e)(8)]**.

SESSION FIVE: OPENING STATEMENT (CONTINUED)

Objectives:

Demonstrate an appropriate opening statement **[3.01(c)(5)]**.

Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences which may impact the mediation. **[3.01(f)(1)]**.

Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may

arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation. **[3.01(f)(2)]**.

Develop an awareness that people differ in how they make decisions, how they process information and how they communicate. **[3.01(f)(3)]**.

Explain the importance of and demonstrate building rapport, establishing trust, setting a cooperative tone, maintaining neutrality and impartiality, listening and questioning, promoting party empowerment and remaining non-judgmental. **[3.01(c)(3)]**

Explain the mediator's role in assisting parties in identifying and clarifying their issues. **[3.01(c)(6)]**

SESSION SIX: HANDLING PARTIES AND PARTICIPANTS

Objectives:

Identify individuals who are essential participants as well as those who are entitled to be present and those who are not required to participate but whose participation may be helpful in mediation. **[3.01(c)(10)]**

Identify appropriate techniques for mediating when one or more parties are not physically present but participate in the mediation. **[3.01(c)(11)]**

Identify appropriate techniques for mediating when persons not required to attend are present in mediation. **[3.01(c)(12)]**

Describe techniques for mediating when all parties are self-represented, some parties are self-represented, or all parties are represented by counsel. **[3.01(c)(13)]**

Identify appropriate techniques for mediating with multiple parties **[3.01(c)(18)]**.

Identify appropriate techniques for handling a situation where a representative appearing for a party does not have full authority to settle. **[3.01(c)(19)]**.

Discuss the dynamics of mediating when one or more parties or representatives repeatedly participate in mediation. **[3.01(c)(20)]**.

Describe techniques for addressing situations where there is a language barrier and for appropriately utilizing the services of an interpreter in mediation. **[3.01(c)(22)]**.

Identify appropriate courses of action when confronted with substance abuse during the mediation session. **[3.01(c)(23)]**.

Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences which may impact the mediation. **[3.01(f)(1)]**.

Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation. **[3.01(f)(2)]**.

Develop an awareness that people differ in how they make decisions, how they process information and how they communicate. **[3.01(f)(3)].**

SESSION SEVEN: COURT PROCESS (Read FI. Rules Civil Procedure Rules Common to Mediation and Arbitration Rule 1.700-1.750; Chapter 44 FI. Statutes; Florida Small Claims Rules)

Objectives:

Identify the route and manner by which a case is referred to mediation by the court. **[3.01(b)(1)].**

Explain the consequences of a full or partial mediated agreement as well as the lack of an agreement. **[3.01(b)(2)].**

Identify the state rules, state statutes, local procedures and forms governing court mediation, including small claims court. **[3.01(b)(3)].**

Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs. **[3.01(b)(4)].**

Identify the various types of disputes which may be presented in county court. **[3.01(b)(5)].**

Identify the protections, constraints, and exceptions of the Florida Mediation Confidentiality and Privilege Act. **[3.01(b)(6)].**

Recognize the mandatory reporting requirements pursuant to Florida law which may apply when an individual becomes aware of possible abuse, neglect or abandonment of a child or abuse, neglect or exploitation of a vulnerable adult. **[3.01(b)(7)].**

Identify the certification and renewal requirements for Supreme Court certified county court mediators. **[3.01(b)(8)].**

Distinguish between court-ordered and non-court-ordered mediation such as pre-suit, voluntary, contractual, and statutory mediation. **[3.01(b)(9)].**

Describe the structure of the Florida state courts. **[3.01(b)(10)].**

Discuss the mediator's ethical responsibilities with respect to confidentiality. **[3.01(e)(8)].**

SESSION EIGHT: COMMUNICATION SKILLS; LISTENING AND QUESTIONING; VERBAL AND NON-VERBAL COMMUNICATION; ACCUMULATING INFORMATION (Read pp. 43 – 50 Manual)

Objectives:

Identify and demonstrate essential elements for effective listening and responding. **[3.01(d)(1)].**

Identify and demonstrate essential elements for effective note-taking. **[3.01(d)(2)]**.

Identify and demonstrate essential elements for effective questioning. **[3.01(d)(3)]**.

Identify and demonstrate appropriate non-verbal communication. **[3.01(d)(4)]**.

Demonstrate the ability to communicate in an understandable manner with the parties and participants and avoid the use of legalese and jargon which inhibit the communication process. **[3.01(d)(6)]**.

SESSION NINE: NEGOTIATION THEORY OVERVIEW (Review *Getting to Yes*)

Objectives:

Identify and demonstrate the basic principles of negotiation. **[3.01(a)(3)]**.

SESSION TEN: ISSUE DEVELOPMENT AND NOTE TAKING (Read pp. 51 - 57 Manual)

Objectives:

Frame issues in neutral language. **[3.01(c)(7)]**.

Develop a framework for discussing the issues in a dispute **[3.01(c)(8)]**.

Identify issues which are appropriate for mediation and those which are not appropriate **[3.01(c)(9)]**.

SESSION ELEVEN: GENERATING SETTLEMENT/MOVEMENT/BREAKING IMPASSE/PERSUASION TECHNIQUES/ BATNA/WATNA. (Read pp. 58 – 67 Manual)

Objectives:

Identify and demonstrate techniques a mediator may use to assist a party to reconsider his/her position **[3.01(c)(14)]**.

Identify techniques to address unresolved issues **[3.01(c)(16)]**.

Explain when and how to use caucuses **[3.01(c)(17)]**.

Discuss the mediator's ethical responsibilities with respect to confidentiality. **[3.01(e)(8)]**.

SESSION TWELVE: CULTURAL /DISABILITY AWARENESS/ADA/USE OF TRANSLATORS AND INTERPRETERS IN COUNTY COURT MEDIATION

Objectives:

Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs. **[3.01(b)(4)]**.

Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences which may impact the mediation. **[3.01(f)(1)]**.

Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation. **[3.01(f)(2)]**.

Develop an awareness that people differ in how they make decisions, how they process information and how they communicate. **[3.01(f)(3)]**.

SESSION THIRTEEN: CAUCUS (Read pp. 68 – 78 Manual)

Objectives:

Explain when and how to use caucuses [3.01(c)(17)].

Discuss the mediator's ethical responsibilities with respect to confidentiality. **[3.01(e)(8)]**.

SESSION FOURTEEN: CONCLUDING THE MEDIATION (Read pp. 79 – 86 Manual)

Objectives:

Identify and demonstrate techniques to conclude a mediation **[3.01(c)(15)]**.

Demonstrate how to record the parties' agreement. **[3.01(d)(5)]**.

Recognize that it is more important for the mediator to conduct the mediation process consistent with the Standards of Professional Conduct for mediators than it is for the parties to settle their case. **[3.01(e)(4)]**.

Discuss the mediator's obligations regarding impartiality. **[3.01(e)(5)]**.

Discuss the mediator's obligation to be neutral with regard to the outcome of the mediation. **[3.01(e)(6)]**.

Explain when a mediator shall adjourn or terminate a mediation session. **[3.01(e)(7)]**.

Recognize that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement be memorialized appropriately. **[3.01(e)(18)]**.

SESSION FIFTEEN: ALL PARTICIPANTS WILL WRITE A COUNTY MEDIATION AGREEMENT; REVIEW OF WRITTEN AGREEMENTS

Demonstrate how to record the parties' agreement. **[3.01(d)(5)]**.

SESSION SIXTEEN (Read pp. 87 – 98 Manual)

Standards of Professional Conduct/Ethics; Disciplinary Rules; Mediator Advisory Committee; Ethical Dilemmas (Read pp. 87 – 98 Manual; Fl. Rules for Certified

**and Court Appointed Mediators - Mediator Certification and Ethics Part II
Standards of Conduct and Part III Discipline Rules 10.200 – 10.900 -Please Bring
To Class)**

Objectives

Identify potential ethical dilemmas. **[3.01(e)(1)]**.

Discuss appropriate courses of action when confronted with an ethical dilemma. **[3.01(e)(2)]**.

Identify acts specifically required and acts specifically prohibited and the acts specifically proscribed by the Florida Rules for Certified and Court-Appointed Mediators. **[3.01(e)(3)]**.

Recognize that it is more important for the mediator to conduct the mediation process consistent with the Standards of Professional Conduct for mediators than it is for the parties to settle their case. **[3.01(e)(4)]**.

Discuss the mediator's obligations regarding impartiality. **[3.01(e)(5)]**.

Discuss the mediator's obligation to be neutral with regard to the outcome of the mediation. **[3.01(e)(6)]**.

Explain when a mediator shall adjourn or terminate a mediation session. **[3.01(e)(7)]**.

Discuss the mediator's ethical responsibilities with respect to confidentiality. **[3.01(e)(8)]**.

Discuss ethical considerations of mediating when domestic violence may compromise safety, self-determination or the mediation process. **[3.01(e)(9)]**.

Explain the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators. **[3.01(e)(10)]**.

Recognize 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 mediator impartiality and the preservation of party self-determination. **[3.01(e)(11)]**.

Recognize 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. **[3.01(e)(12)]**.

Recognize 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 mediator impartiality and preservation of party self-determination. **[3.01(e)(13)]**.

Explain how 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. **[3.01(e)(14)]**.

Discuss the mediator's ethical obligations regarding advertising and billing practices. **[3.01(e)(15)]**.

Explain how a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals. **[3.01(e)(16)]**.

Explain the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators. **[3.01(e)(17)]**.

Recognize that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement be memorialized appropriately. **[3.01(e)(18)]**.

Identify when a mediator shall advise the parties of the right to seek independent legal counsel. **[3.01(e)(19)]**.

Identify when a mediator shall adjourn or terminate mediation. **[3.01(e)(20)]**.

Explain a mediator's ethical duty to inform mediation parties and participants that mediation is a consensual process; that 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. **[3.01(e)(21)]**.

Recognize that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator. **[3.01(e)(22)]**.

Recognize when and how to use outside experts effectively and how to assist the parties in deciding on appropriate community resources. **[3.01(e)(23)]**.

Recognize the ethical issues that arise when some parties or representatives are repeat participants in mediation. **[3.01(e)(24)]**.

SESSION SEVENTEEN: ROLE PLAY INSTRUCTIONS

SESSION EIGHTEEN: ROLE PLAYS

Each student will participate in a minimum of two continuous 45 minute role plays plus 20 minute oral and written feedback after each (one acting as sole mediator, other playacting as disputant).

Objectives:

Recognize the importance of party empowerment and self-determination in county court mediation. **[3.01(a)(5)]**.

Explain and demonstrate the role of the mediator in conducting a mediation 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. **[3.01(c)(2)]**

Explain the importance of and demonstrate building rapport, establishing trust, setting a cooperative tone, maintaining neutrality and impartiality, listening and questioning, promoting party empowerment and remaining non-judgmental. **[3.01(c)(3)]**

Identify procedural elements which should be addressed prior to entry of the parties into the mediation room, including seating of parties and set-up of the room. (3.01 (c)(4)).

Identify appropriate techniques for handling difficult or dangerous situations [3.01(c)(21)].

Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs. **[3.01(b)(4)]**.

Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences which may impact the mediation. **[3.01(f)(1)]**.

Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation. **[3.01(f)(2)]**.

Develop an awareness that people differ in how they make decisions, how they process information and how they communicate. **[3.01(f)(3)]**.

Explain the mediator's role in assisting parties in identifying and clarifying their issues. **[3.01(c)(6)]**

Identify individuals who are essential participants as well as those who are entitled to be present and those who are not required to participate but whose participation may be helpful in mediation. **[3.01(c)(10)]**

Identify appropriate techniques for mediating when persons not required to attend are present in mediation. **[3.01(c)(12)]**

Describe techniques for mediating when all parties are self-represented, some parties are self-represented, or all parties are represented by counsel. **[3.01(c)(13)]**

Identify appropriate techniques for mediating with multiple parties **[3.01(c)(18)]**.

Identify the protections, constraints, and exceptions of the Florida Mediation Confidentiality and Privilege Act. **[3.01(b)(6)]**.

Recognize the mandatory reporting requirements pursuant to Florida law which may apply when an individual becomes aware of possible abuse, neglect or abandonment of a child or abuse, neglect or exploitation of a vulnerable adult. **[3.01(b)(7)].**

Distinguish between court-ordered and non-court-ordered mediation such as pre-suit, voluntary, contractual, and statutory mediation. **[3.01(b)(9)].**

Identify and demonstrate essential elements for effective listening and responding. **[3.01(b)(1)].**

Identify and demonstrate essential elements for effective note-taking. **[3.01(d)(2)].**

Identify and demonstrate essential elements for effective questioning. **[3.01(d)(3)].**

Identify and demonstrate appropriate non-verbal communication. **[3.01(d)(4)].**

Demonstrate the ability to communicate in an understandable manner with the parties and participants and avoid the use of legalese and jargon which inhibit the communication process. **[3.01(d)(6)].**

Frame issues in neutral language. **[3.01(c)(7)].**

Develop a framework for discussing the issues in a dispute **[3.01(c)(8)].**

Identify and demonstrate techniques a mediator may use to assist a party to reconsider his/her position **[3.01(c)(14)].**

Identify techniques to address unresolved issues **[3.01(c)(16)].**

Explain when and how to use caucuses **[3.01(c)(17)].**

Identify and demonstrate techniques to conclude a mediation **[3.01(c)(15)].**

Demonstrate how to record the parties' agreement. **[3.01(d)(5)].**

Identify potential ethical dilemmas. **[3.01(e)(1)].**

Discuss appropriate courses of action when confronted with an ethical dilemma. **[3.01(e)(2)].**

Identify acts specifically required and acts specifically prohibited and the acts specifically proscribed by the Florida Rules for Certified and Court-Appointed Mediators. **[3.01(e)(3)].**

Recognize that it is more important for the mediator to conduct the mediation process consistent with the Standards of Professional Conduct for mediators than it is for the parties to settle their case. **[3.01(e)(4)].**

Discuss the mediator's obligations regarding impartiality. **[3.01(e)(5)].**

Discuss the mediator's obligation to be neutral with regard to the outcome of the mediation. **[3.01(e)(6)].**

Explain when a mediator shall adjourn or terminate a mediation session. **[3.01(e)(7)].**

Discuss the mediator's ethical responsibilities with respect to confidentiality. **[3.01(e)(8)].**

Discuss ethical considerations of mediating when domestic violence may compromise safety, self-determination or the mediation process. **[3.01(e)(9)].**

Explain the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators. **[3.01(e)(10)].**

Recognize 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 mediator impartiality and the preservation of party self-determination. **[3.01(e)(11)].**

Recognize 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. **[3.01(e)(12)].**

Recognize 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 mediator impartiality and preservation of party self-determination. **[3.01(e)(13)].**

Explain how 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. **[3.01(e)(14)].**

Discuss the mediator's ethical obligations regarding advertising and billing practices. **[3.01(e)(15)].**

Explain how a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals. **[3.01(e)(16)].**

Explain the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators. **[3.01(e)(17)].**

Recognize that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement be memorialized appropriately. **[3.01(e)(18)].**

Identify when a mediator shall advise the parties of the right to seek independent legal counsel. **[3.01(e)(19)].**

Identify when a mediator shall adjourn or terminate mediation. **[3.01(e)(20)].**

Explain a mediator's ethical duty to inform mediation parties and participants that mediation is a consensual process; that 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. **[3.01(e)(21)]**.

Recognize that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator. **[3.01(e)(22)]**.

Recognize when and how to use outside experts effectively and how to assist the parties in deciding on appropriate community resources. **[3.01(e)(23)]**.

Recognize the ethical issues that arise when some parties or representatives are repeat participants in mediation. **[3.01(e)(24)]**.

SESSION NINETEEN: WRAP-UP; DISCUSSION AND QUESTIONS ABOUT TRAINING; REVIEW MENTORSHIP AND CERTIFICATION PROCESS; CME REQUIREMENTS; EVALUATION AND AUDIT; HAND OUT APPLICATIONS FOR CERTIFICATION;

GRADUATION

THIS ENDS THE CERTIFIED TRAINING

The remainder* of classes will be used for students to gain proficiency in their mediation skills by continuing their mentorship experience at the courthouse. They will observe as well as participate in (co-mediate) court-ordered mediations.

***We will be back in the classroom for one time near the end of the semester. Reflection papers (hard copies) are due on that day at the beginning of class.**