

Working with Older Persons in Mediation: Diversity Training Objectives and Commentary

*Prepared by the ACR Section on Elder Decision-Making and Conflict Resolution
Committee on Training Standards*

These objectives are for training mediators who want to enhance their ability to work with older persons in mediation. They are not intended to teach new subject areas or types of mediation (e.g. elder care, grandchild custody, long-term care mediation), but rather to give training in working with older people in mediation areas in which the mediator is already practicing. This training can be given as a stand-alone training, or in conjunction with other diversity training. Mastery of these general objectives is necessary, but not sufficient, for doing elder care and other specialized elder mediation; thus these objectives are also integrated into the training objectives for those areas.

Commentary

Older persons may be participants in every area of mediation—family, community, consumer, or business. In many situations, the fact that one or more participants is an older person may not seem relevant or important to the resolution of the issues that brought them to mediation. Yet, understanding of the physical, emotional, social, and cultural experiences and expectations of older persons, and of people interacting with older persons, may affect the effectiveness of the mediator in such a mediation. These objectives address areas in which trainers can help mediators gain competence in mediation involving older persons.

1. Have knowledge of the normal mental and physical effects of aging, as well as strengths and losses that may come with aging, and how to accommodate those changes so as to maximize participation in the mediation process for an older person and all other participants.

Commentary

Presentation of information about normal aging, individual differences in the rate of aging, and disabilities that are more prevalent among older persons can give the mediator awareness and sensitivity while avoiding assumptions about any particular older person who is a mediation participant. Best practice is to include participatory exercises designed to increase mediator understanding of common challenges encountered in the aging process.

2. Be aware of societal and participant biases as well as family, generational and cultural attitudes regarding aging and their effect on the mediation process.

Commentary

Participants, including older persons themselves and support people, as well as the mediator, may have biases involving aging. The training should help mediators understand how ageist views may be inherent in the conflict as well as in the communication patterns of participants. Mediators should learn appropriate strategies to

recognize bias, minimize its impact, and ensure that each participant's voice is heard in the mediation. In addition, training should consider the influence of family and community culture on communication patterns involving an older person.

3. Engage in a self-assessment of any aging or disability-related biases/perceptions that might impact mediator competency.

Commentary

Self-assessment begins at the training, and is an ongoing process in each case that the mediator undertakes. Mediators need to be aware of any unconscious bias that may make the mediator more or less partial to any participant in mediation. Self-reflection is important to developing strong mediation skills in any context, and mediator competency in mediation is enhanced by mediator consideration and understanding of perceptions, biases, or ageist thinking and the ways these beliefs can have an impact on the mediation process and the parties. Self-assessment of competency is also a factor in a mediator's decision to accept or decline a particular case.

4. Understand the need for appropriate intake procedures.

Commentary

While this training is not intended to teach mediators to screen for elder abuse or to handle cases in which a participant is cognitively impaired, mediators should be introduced to these concepts and understand the need for intake in all cases, whether done by the mediator or by others. Training should help mediators determine when they may not be competent to handle a particular case.

5. Develop and practice skills related to working with elders in mediation.

Commentary

The committee recommends that any training allow time for role plays and provide feedback to participants by experienced coaches. Role play developers should consider role descriptions that suggest realistic ways of "playing" older participants. Subject issues in the role plays should be in areas in which the trainees already have training and experience. Role play debriefing should support mediator self-reflection of lessons learned in role plays. Appropriate use of videos, discussion, and lecture can also enhance skill development.

6. Deepen understanding of ethical issues in mediation involving elders.

Commentary

The best practice is to acknowledge that ethical issues exist on every level/facet of the mediation process, and mediators should be trained to identify ethical issues that might arise at any point, from intake to closure. The committee recommends that ethics education be interwoven throughout training and not be presented only as a separate module. Potential ethical issues may include the following:

- **Mediator Competency:** Mediators need to be alert to their own limitations to mediate a case for which they have not received sufficient training or for which they need to seek additional support.
- **Support without Stereotypes:** As in any diversity training, trainers must be careful to help trainees understand aging without implanting assumptions or biases about any individual mediation participant. Trainees should learn to ask appropriate questions and be open to needs related to aging while respecting the individuality of each participant.