

RULE 31 TRAINER APPLICATION – HYBRID PROGRAM

Trainers shall use this application when requesting Tennessee Supreme Court Alternative Dispute Resolution Commission (“ADRC”) approval to deliver a currently approved Rule 31 training course through a hybrid use of in-person, live online, synchronous and asynchronous video formats

The ADRC Training Committee provides the following guidance:

The sixteen (16) hours of remote training should be focused on communicating more general information. Among the topics in the general information may include conducting online mediation and a short exercise in doing so. May also include the following: Rule 31 and procedures and standards, court process, standards of conduct and ethics for Rule 31 Neutrals. See Rule 31, §14(c)(1) (2018)

The twenty-four (24) hour in-person training should be more devoted to skills – the “doing” – and role plays. For example: negotiation dynamics, mediation process and techniques, and communication skills. See Rule 31, §14(c)(1) (2018)

REQUIREMENTS

1. If the Trainer applying is currently an approved Rule 31 Trainer, this form application is all that is required.
2. However, trainers who are not previously approved by the ADRC and who wish to conduct a portion of a training program online must submit a standard Rule 31 Trainer Application AND this completed form to the ADRC.
3. **40 Hr. General Civil Mediation Training:** Up to sixteen (16) hours may be conducted “online live” and all remaining hours twenty-four (24) shall require the physical presence of the participants.
4. **40-46 Hr. Family Mediation Training:** Up to sixteen (16) hours may be conducted “online live” and all remaining hours thirty (30) shall require the physical presence of the participants.
 - a. The four (4) hours of **domestic violence training** included in Family Mediation Training shall require the physical presence of the participants and may not be conducted live online. See Rule 31, §14(b)(ii)-(iii): “ (ii) . . .40 hours of training in family mediation which includes the curriculum

components specified by the ADRC for Rule 31 Mediators in family cases and which also includes four hours of training in screening for and dealing with domestic violence in the mediation context; and (iii) . . . six additional hours of training in Tennessee family law and court procedure.”
<http://www.tncourts.gov/rules/supreme-court/31>

5. **Domestic Violence Designation Training:** Up to thirteen (13) hours may be conducted “online live” and all remaining hours (3) shall require the physical presence of the participants. The three (3) hours of “online live” training must include the following topics:
 - a. “Maintaining Control of the Mediation”; and
 - b. A simulation that addresses the topic – “How and When to Terminate Mediation Where Domestic Violence Occurs Between the Mediating Parties during the course of the mediation.”
6. Participants must be instructed to keep their videos turned on at all times.
7. Class size must be limited to no more than twelve (12) participants.
8. Each participant must conduct a “Role Play” as a mediator.
9. The “Role Play” (Requirement #5) must be conducted when participants are physically present (in person) and be at least one (1) hour in length.
- 10 Trainer may not use in excess of three (3) hours of pre-recorded material.
11. The Trainer will be required to submit an ADRC provided evaluation form. ADRC provided evaluation form will be completed by all students upon completion of the course and submitted to the Rule 31 Programs Manager.
- 12 All other applicable training requirements will remain in effect.

HYBRID PROGRAM APPLICATION FORM

Program Name: _____

Instructor(s): _____

Training Organization: _____ Contact Person: _____

Email: _____ Phone: _____

1. Type of program: (select all that apply)

- General Civil Family Domestic Violence Designation

2. Remote platform to be used:

3. Provide detail regarding the Trainer's familiarity with the delivery platform:

4. Provide a link to a video recording segment (3 minutes or less) which demonstrates the Trainer using the delivery platform including breakout rooms: (For example, some platforms have the capability to "Record to the cloud" or do an internet search for "screen recording applications.")

5. Provide detail regarding the Trainer's experience in (1) mediating online and (2) delivering training online:

6. Provide detail regarding what topics will be taught remotely:

7. Attach all proposed training forms, documents and course outline to the application email.

PLEASE RETURN THIS YOUR APPLICATION TO THE AOC RULE 31 PROGRAMS MANAGER VIA EMAIL AT ADRRegistration@tncourts.gov.

YOU MAY NOT ADVERTISE OR CONDUCT HYBRID TRAINING UNTIL YOU RECEIVE APPROVAL FROM THE ADRC.

Revised Curriculum Content for Specially Trained in Domestic Violence Issues

OBJECTIVES

The purpose of this course is to enable family mediators to understand and work effectively with the differences in mediating cases where some form of domestic abuse has occurred*. A combination of lecturettes, videos, role plays, case studies, reading assignments, small group exercises and discussion may be used to accomplish the following objectives:

- Mediators will become familiar with and learn to recognize several forms and patterns of domestic violence/abuse.
- During intake and throughout the mediation sessions, mediators will learn how to identify and screen for the dynamics of domestic abuse used for coercive control.
- The course discusses self-determination of the at-risk party and the at-risk-party's ability to negotiate for oneself, with a focus on ensuring the safety of all parties.
- Mediators will learn the differences in mediating cases where there has been abuse and the importance of maintaining balance and control in the mediation process.
- Rule 31's *Standards of Professional Conduct for Covered Neutrals* are reviewed as well as ethical dilemmas for mediators remaining impartial and the importance of confidentiality.
- The need for caution and special considerations in drafting Parenting Plans are explained.
- Mediators will learn best practices for safely terminating a mediation when it is determined that mediation is not appropriate.
- Mediators will be introduced to a variety of resources to assist their understanding of and ability to work with domestic abuse victims and perpetrators.

**Not intended for mediating cases where the primary subject of mediation is domestic violence or abuse. Domestic Abuse is Not Negotiable. Parties do not mediate abuse or the acceptability of abusive behavior; they mediate issues related to their divorce, their children, and future interactions between the parties.*

Specially Trained in Domestic Violence Issues

<i>Topic</i>	<i>Activity: role play, video, case, reading, etc.</i>	<i>Hours</i>
Definitions and Forms of DV/Abuse		1.5

Psychological, financial, and sexual, in addition to physical abuse
 Profiles and vulnerabilities of victims and perpetrators
 Recognizing signs and symptoms of abuse including Coercive Control

<i>Topic</i>	<i>Activity: role play, video, case, reading, etc.</i>	<i>Hours</i>
Mediation Intake Screening		2

Screen for domestic violence during every domestic mediation intake
 Screening methodologies and resources
 Community resources and the ethics of making referrals
 Determining whether a case is appropriate for mediation

<i>Topic</i>	<i>Activity: role play, video, case, reading, etc.</i>	<i>Hours</i>
Safety Assessments/Safety Planning	“Is Mediation Appropriate?” article Audio: “Coercive Control During Covid-19” - Battered Women’s Justice Project	2.5

During the mediation, mediators should continually reassess whether any party feels coerced into an agreement

Continuously assess whether and when to switch to remote mediation.
 Never take the option off the table.

Distribute and discuss *The Mediator's Assessment of Safety Issues and Concerns (MASIC): A Screening Interview for Intimate Partner Violence and Abuse Available in the Public Domain*, Amy Holtzworth-Munroe, Connie J. A. Beck, and Amy G. Applegate, October 2010, Family Court Review 48(4):646-662 ¹

Distribute and promote familiarity with the *Domestic Violence Interview Guide* from the 2013 Battered Women’s Justice Project, U.S. Department of Justice ²

Introduce the *Power and Control Wheel*, Developed by Domestic Abuse Intervention Project, Duluth, MN ³

Promote familiarity with resources available via the National Domestic Violence Hotline ⁴

Potential mediation safeguards including:

Structure:

Safety protocols

Establishing safe termination procedures is important

Create delays or check-ins before parties sign any agreement

Support:

Involve attorneys, advocate(s), support persons, or refer parties to other relevant resources

Work out a signal and/or ensure that the vulnerable party is able to reach you discreetly if they feel uncomfortable

Space:

Conduct the mediation via shuttle or telephonically or via an online platform

Ensure that parties have separate waiting areas

Conduct the mediation during safe times of the day and in a security-designed spaces with security present or available

<i>Topic</i>	<i>Activity: role play, video, case, reading, etc.</i>	<i>Hours</i>
Mediating with Domestic Violence Issues		3

How Mediating cases with DV issues differs from mediating other cases:

A potential power imbalance is critical! Mediators must be alert for, recognize, and be prepared to mitigate a possible power imbalance. When domestic violence is present, the abuser’s desire to maintain power and control over the abused party is inconsistent with the methods and objectives of mediation. Fear of the abuser may prevent the abused party from asserting their needs. Statements made by the abused party during the process may subject that party and others, including children, to retaliation after or between the mediation sessions.

Mediator neutrality may support the abuser’s belief that the abuse is acceptable. The forward-looking nature of mediation may discourage

disclosure and discussion of past abuse, which in turn invalidates the abused party's concerns and excuses the abuser.

A court ordering parties to try mediation may inadvertently communicate to the abuser and the abused party that the violence is not serious enough to compromise the parties' ability to negotiate as relative equals. This message also may invalidate the seriousness of the abuse, dilute abuser accountability, and result in inequitable or unsafe agreements.

In cases where mediation takes place over a longer period of time, changes in the parties' circumstances may cause abuse tactics to appear or escalate. Circumstances such as physical separation of the parties, or the abused party's formation of a new relationship, may cause an abuser's tactics to escalate as the abuser seeks to regain lost control in the relationship.

Consider co-mediation to better oversee and direct the process in difficult mediations. Co-mediation might be conducted by mediators reflecting the gender of the parties, or involve specific professions (financial experts, mental health professionals, attorneys) as appropriate to the subject matter of the mediation.

What Mediators should and should not do given the differences:

Take and maintain more control of the mediation process. Mediators may need to be more directive/evaluative than in other cases.

Maintaining balance may not be as important as maintaining control of the process.

Explore the possible power imbalances in mediations with DV dynamics, and the impact that such imbalances would have on mediation (possibly in a small group exercise)

The mediation process is less collaborative and more a facilitated negotiation. Parties tend to focus more on their separate interests and solutions rather than mutual interests.

Allow a support person for the abused party to accompany the abused party in the waiting room and mediation session.

Short-term agreements may be more desirable. Longer term agreements can be counterproductive due to the tenuousness, volatility, and the unpredictable nature of the relationship.

<i>Topic</i>	<i>Activity (role play, video, case, reading, etc.)</i>	<i>Hours</i>
Maintaining Control of the Mediation	Video if possible	2

There is a place for mediator judgement. Mediator must continually evaluate whether the case is appropriate for mediation and whether he or she has the skills to work with the parties effectively.

“Self-determination” may be defined differently. Attorneys and advocates may add determinative voices and fulfill critical roles.

Mediators must be alert for precursors or signs that continuing or additional abuse could be imminent.

Managing aggressive negotiation techniques (in joint session and in caucus)

Establishing and enforcing roles, ground-rules

Holding space for a vulnerable party

Other Things to Watch for...

Participation/Behavior; Changes in body language; People talking around things; Making a lot of low blows; Someone shutting down

Focus

Are they focused on blame and shame?

Is one party proposing ideas that exert control over the personal life, relationships, employment, or housing of the other person?

Conversation Dynamics

Are conversations happening that don't seem to make sense?

Are tensions escalating?

Are parties agreeing to things contrary to their own needs?

Is one party making a series of demands and ultimatums?

Is one party doing all the accommodating while the other keeps moving the goal-post?

Is one person using leverage against the other?

<i>Topic</i>	<i>Activity: role play, video, case, reading, etc.</i>	<i>Hours</i>
Concepts of and Techniques for Dealing with Anger	"De-Escalation Tips" - Crisis Prevention Institute; Video or role play if possible	1

Differences between anger and "power and control"

Functions of anger

Anger as a strategy

Anger as a reactive response

Anger and negotiation

Managing escalation and de-escalation

Understanding and navigating the Shame-Rage Spiral

Acknowledging emotions: Looking underneath anger (fear, grief, etc.)

Responding to anger

<i>Topic</i>	<i>Activity: role play, video, case, reading, etc.</i>	<i>Hours</i>
Ethical Dilemmas Arising in Mediations with Domestic Violence Issues		2

Review Rule 31 Appendix A "*Standards of Professional Conduct for Covered Neutrals*"

To balance or not to balance the scale: if placing more than two fingers on the scale is required for the mediator to balance the power relationship, mediation is likely not appropriate.

Maintaining mediator neutrality

Reliable resources may be essential. Attorneys, victim and batterer advocates, counselors, and a safety plan can all work together toward success.

Confidentiality related to child and spousal abuse must be seriously factored.

When no attorneys are involved

When only one party is represented

Self-determination and safety: When to intervene

<i>Topic</i>	<i>Activity: role play, video, case, reading, etc.</i>	<i>Hours</i>
Special Considerations for Drafting Safe, Effective Parenting Plans		1

When children are involved, Parenting Plans are often the nexus for the parties' ongoing contact.

Attention to details including frequency of contact between parents, drop-off/pick-up logistics and waiting times are all very important. Specify how parents will notify each other if they will be late or are otherwise unable to be at the designated exchange location.

Pre-determine, write, and include a "Plan B" for when "Plan A" doesn't work.

Avoid vague, ambiguous, unenforceable language: "flexible" and "reasonable" visitations are problems waiting to occur.

Specify topics appropriate for discussion during the exchange and which topics are not.

Be familiar with and consider offering different types of co-parenting tools that reduce the amount of face-to-face time the parties will have. Providing safe and effective ways for the parties to communicate offers the DV victim means to avoid potentially

dangerous encounters and reduces the likelihood of harm and abuse. Sample co-parenting tools include OurFamilyWizard, Coparently, Coparenter, and several others recommended by [Parents Magazine](#).

Topic	Activity: (role play, video, case, reading, etc.)	Hours
How and When to Safely Terminate a Mediation where DV has been involved	A video would be good. Role play recommended	1

Terminate from private caucus. Mediation should be terminated from separate sessions - not in joint session.

Do Not Blame Victim. The mediator should use care not to blame the victim for the termination in comments to the parties and in mediation outcome notices filed with the Court.

Do Not Disclose Domestic Violence. If the domestic violence was disclosed only by the victim, the mediator should not advise the parties that the reason the mediation was terminated was because of domestic violence issues.

Possible suggested language for termination after mediation has commenced:

“In my experience, parties are sometimes not ready to mediate all of their issues and some of them may be better handled by a Judge or Magistrate in Court rather than in mediation. Some of the issues and concerns raised here are the types that may be better addressed in a Court proceeding. Therefore, I am terminating this mediation so that you can present your issues to the Court. Once the court has heard the issues, they could redirect you back to mediation. It is not a “failure” to terminate mediation and there are no legal repercussions for doing so. I suggest you review this case with your attorney or seek legal advice.”

Total Hours: 16

¹ https://www.researchgate.net/publication/227667044_The_Mediator%27s_Assessment_of_Safety_Issues_and_Concerns_MASIC_A_Screening_Interview_for_Intimate_Partner_Violence_and_Abuse_Available_in_the_Public_Domain

² https://www.ncsc.org/__data/assets/pdf_file/0020/19109/domestic-violence-interview-guide-12232014.pdf

³ <https://www.theduluthmodel.org/wheels/>

⁴ <https://www.thehotline.org>

Works Cited and Additional Resources

List videos/role play scenarios/case studies/assigned readings/references

[TN Rule 31 Appendix A: “Standards for Professional Conduct for Covered Neutrals”](#)
[Divorce and Family Mediation - Folberg, Jay, A.L. Milne, P. Salem, eds. Book](#)
[Is Mediation Appropriate? Concerns and Recommendations - Mediate.com Article](#)
[Differentiation Among Types of Intimate Partner Violence: Research Update and Implications for Interventions Family Court Review Article](#)
[The Mediator's Assessment of Safety Issues and Concerns \(MASIC\): A Screening Interview for Intimate Partner Violence and Abuse Available in the Public Domain](#)
[Domestic Violence Interview Guide](#)
[The Power and Control Wheel](#)
[Michigan DV Screening Protocol for Mediators](#)
[Ohio Domestic Abuse and Mediation Training Program Standards](#)
[An Online Pre-Mediation Screening Tool - Resolutions Systems Institute](#)
[De-Escalation Tips - Crisis Prevention Institute](#)
[Intimate Partner Violence and Ethical Mediation - U of North Dakota](#)
[Addressing Domestic Violence in Mediation - Harvard](#)
[Stop Violence Against Women Mediation - Advocates for Human Rights](#)
[Domestic Abuse Screening - Stanford](#)
[Screening for DV in Mediation - Cook County, IL](#)
[Screening for DV - Maine](#)
[DV Screening for Non-English Speaking Women - EthnoMed](#)
[Online Dispute Resolution and Domestic Violence - Battered Women's Justice Project](#)
[Needs of DV Victims - Battered Women's Justice Project](#)
[Practice Guides for Family Court Decision Making in Domestic Abuse-Related Child Custody](#)
[National Coalition Against Domestic Violence TN Statistics](#)
[The National Domestic Violence Hotline](#)
[“It's Not Like I Hit Her” Video](#)
[Challenges within Family Mediation - Andrew Schepard Video](#)
[Coercive Control During Covid-19 - Battered Women's Justice Project Audio](#)
[“Is this Abuse?” - Metro Office of Family Safety Quiz](#)
[Co-Parenting App Tools Parents Magazine](#)