

**GUIDELINES FOR IMPLEMENTATION OF  
QUALIFICATIONS STANDARDS FOR NEUTRALS  
ADOPTED JANUARY 24, 2004  
PURSUANT TO RULE 8 OF THE UNIFORM RULES OF DISPUTE RESOLUTION**

**MEDIATORS<sup>1</sup>**

**I. Guidelines for Training Mediators, Including Curriculum Outline**

***Philosophy:** Basic mediation training emphasizes interactive participation and encourages “learning by doing” in a constructive and supportive atmosphere. It includes a mixture of theory and practice that enhances the performance of trainees and provides a variety of learning techniques that reflects a sensitivity to individual learning styles. Lecture and role-play content covers basic considerations in the types of disputes addressed by the mediation program.*

Training of mediators pursuant to Rule 8 shall substantially comply with these Guidelines.

**A. Basic Training**

1. The training program shall include:

- a. Minimum of thirty hours; thirty-six to forty hours recommended;
- b. Minimum of three coached role-plays with trainee as mediator, including a minimum of one complete role-play session (from introduction to conclusion of session); and
- c. One coach for each small group during role-play (a maximum of six trainees).

2. Curriculum Outline shall include:

- a. Lecture/discussion/exercises
  - i. Overview of program
    - (aa) Explanation of training, apprenticeship and evaluation format
    - (bb) Role of program
    - (cc) Ethical Standards

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<sup>1</sup>These Guidelines are an adaptation of the Training Standards of the Massachusetts Association of Mediation Programs and Practitioners.

- ii. Overview of ADR
  - (aa) ADR processes
  - (bb) Nature of conflict/behaviors in conflict
  - (cc) Steps of mediation process
  - (dd) Role of mediator
  
- iii. Mediation skills/strategies
  - (aa) Listening
  - (bb) Using neutral language
  - (cc) Rephrasing
  - (dd) Asking follow-up questions
  - (ee) Re-framing
  - (ff) Summarizing
  - (gg) Identifying issues
  - (hh) Overcoming barriers to agreement
  - (ii) Negotiating agreement
  - (jj) Note taking
  - (kk) Agreement writing
  
- iv. Critical issues
  - (aa) Values, bias awareness
  - (bb) Personally sensitive issues
  - (cc) Physical/substance abuse
  - (dd) Power imbalance
  - (ee) Cultural diversity
  - (ff) Ethical and other dilemmas for the mediator

b. Mediation demonstration

c. Coached role-plays

### 3. Evaluation in a Role-Play Situation:

- a. Shall occur at the end, or after completion, of a minimum of thirty hours of basic training;
- b. Shall be provided by the training team during the training or within a reasonable time after the conclusion of the basic training, or separately by a mediation program or independent evaluator;
- c. Shall apply criteria for successful completion of required evaluation, using

the Mediation Skills Checklist set forth in section III;

- d. A prospective mediator may be given more than one opportunity to achieve a successful evaluation.

**B. Court Orientation**

Court orientation shall prepare mediators to conduct mediation within the judicial system, and shall include:

1. An explanation of the structure and processes of the courts;
2. An overview of the Uniform Rules on Dispute Resolution, with special emphasis on the guiding principles, the ethical and qualification standards for neutrals, and the administrative responsibilities of neutrals, programs and courts, under the rules; and,
3. When feasible, an introduction to the particular court or courts for which the mediator will be providing services.

**II. Guidelines for Mentoring and Evaluating Mediators**

***Philosophy:** Mediators learn to mediate well by practicing mediation in a supportive atmosphere. Evaluation of mediators is based primarily on competency as demonstrated in coached role-plays. Mediation mentoring allows the candidate to demonstrate his/her competency to integrate the lessons from training into actual practice.*

Mentoring and evaluating mediators pursuant to Rule 8 of the Uniform Rules shall substantially comply with this Guideline.

**A. The mentoring and evaluation process shall include:**

1. Successful completion of a minimum of thirty hours of basic training and successful evaluation in a role-play situation;
2. Observing a minimum of one actual mediation conducted by a skilled mediator who conducts a debriefing session with the mediator candidate;
3. Performing a minimum of one actual mediation with or observed by a skilled mediator who conducts a debriefing session with the mediator candidate and provides the program with an evaluation of the competency of the mediator candidate using the Mediation Skills Checklist set forth in Guideline III;
4. Assessing the progress of the mediator, recommending next steps, and determining when the mentoring and evaluation requirement has been

successfully completed. The requirement shall be satisfied when the mentor determines that the mediator demonstrates competence using the skills evaluation checklist.

- B. The mentoring and evaluation process may be conducted by a training program, mediation program, or independent mentor/evaluator.

### III. Mediator Skills Checklist

***Philosophy:** Mediators have an obligation to the public and the profession to conduct their practice in a competent and ethical manner. Central to the code of behavior required of mediators is a commitment to and respect for the parties and the mediation process. Central also is the personal integrity with which each mediator enhances the quality of the process.*

The following list of observable behaviors is not intended as an exhaustive list, but as a reflection of the minimum requirements for basic mediator competency. The skills evaluation checklist should be used to evaluate mediators during training, mentoring, and evaluation:

#### A. Managing the Process

The mediator:

1. Is able to explain the mediation process and role of mediator
2. Sets a tone that helps to put people at ease
3. Guides transitions between stages
4. Has a good sense of timing
5. Is flexible in tailoring the process to the needs of the parties
6. Respects the parties' rights to make their own decisions
7. Upholds the parameters of confidentiality

#### B. Managing Interactions

The mediator:

1. Maintains an open, honest and supportive atmosphere
2. Treats parties with respect and affirmation
3. Maintains neutrality
4. Demonstrates effective active listening skills
5. Uses clear language
6. Maintains composure when challenged
7. Avoids appearance of bias or favoritism
8. Handles conflict and strong emotions effectively
9. Helps parties to see things positively
10. Helps parties to see problems from the others' point of view
11. Is able to ask tough questions in a non-threatening manner
12. Avoids giving opinions or making judgments

13. Works cooperatively with co-mediator
14. Keeps discussions focused on issues relevant to the negotiations
15. Demonstrates patience and persistence

C. Managing Information

The mediator:

1. Asks relevant and open-ended questions
2. Presents and re-frames information clearly
3. Seeks understanding of underlying needs
4. Determines areas of flexibility
5. Keeps track of new information and changing perspectives
6. Develops strategic direction
7. Introduces brainstorming or role reversal to encourage re-evaluation of positions and development of options
8. Encourages parties to develop new solution
9. Identifies common interests
10. Encourages collaborative efforts between parties
11. Recognizes potential areas of agreement
12. Summarizes at appropriate times
13. Supports parties' control of the outcome
14. Helps to frame a clear, balanced, specific and future-oriented agreement

**IV. Alternative Methods for Mediators**

Mediators may meet the requirements of Rule 8 by the alternative methods set forth in this section.

- A. Training Requirements. A mediator may meet the training requirement by providing an approved program with satisfactory evidence that he or she has:
1. Completed a basic mediation training of at least thirty hours, which is substantially equivalent to a course that meets the standards set forth in Rule 8 and these Guidelines, in another state or before the qualifications standards became effective, or taught such a course as a lead trainer;
  2. Taken or taught a training course in the ethical standards set forth in Rule 9 of the Uniform Rules or substantially similar standards, and taken or taught a court orientation course substantially similar to the orientation required by Rule 8, before the Uniform Rules became effective; and
  3. Either taken or taught a specialized training course as required by any Trial Court Department in which he or she is practicing.
- B. Evaluation and Mentoring Requirements. A mediator may meet the mentoring or

evaluation requirement or both by submitting to an approved program satisfactory evidence that he or she:

1. In a substantially equivalent process, was mentored or evaluated, or served as a mentor or evaluator, as applicable, before the qualifications standards became effective; and
2. Formally mediated at least five cases in the three years preceding the date of application.

## **ARBITRATORS**

### **I. Guidelines for Training Arbitrators, Including Curriculum Outline**

***Philosophy:** Arbitration training emphasizes the need to focus on decision-making and case management skills by neutrals. The exercises utilized provide diverse scenarios to develop the arbitrators' decision-making skills to handle substantive and procedural issues.*

Training of arbitrators pursuant to Rule 8 shall substantially comply with these Guidelines.

#### **A. Basic Training**

1. The training program shall include:
  - a. Minimum of eight hours;
  - b. Participation in one role-play as arbitrator;
  - c. No more than 24 participants, to allow for efficient and adequate evaluation of participants;
  - d. Maximum of four participants per evaluator; maximum of twelve participants per trainer.
2. Curriculum Outline shall include:
  - a. Disclosure and ethics
  - b. Pre-hearing case management
  - c. Managing the hearing
  - d. Award deliberation, preparation, and review
  - e. Role of administering agency
  - f. Interaction between court, approved program, and arbitrator
3. Evaluation in a role-play situation:

- a. Shall occur at the end, or after completion, of a minimum of eight hours of training;
- b. Shall be provided by the training team during the training or within a reasonable time after the conclusion of the basic training, or separately by an arbitration program or independent evaluator;
- c. Shall apply explicit criteria for successful completion of required evaluation, using the Arbitrator Skills Checklist set forth in section III;
- d. A prospective arbitrator may be given more than one opportunity to achieve a successful evaluation.

B. Court orientation

Court orientation shall prepare arbitrators to conduct arbitration within the judicial system, and shall include:

1. An explanation of the structure and processes of the courts;
2. An overview of the Uniform Rules on Dispute Resolution, with special emphasis on the guiding principles, the ethical and qualification standards for neutrals, and the administrative responsibilities of neutrals, programs and courts, under the rules; and,
3. When feasible, an introduction to the particular court or courts for which the arbitrator will be providing services.

**II. Guidelines for Mentoring and Evaluation**

***Philosophy:** Evaluation of arbitrators is based primarily on interaction at the training through interactive exercises and review of awards as well as observation during one role-play as an arbitrator. The role-play allows evaluators to determine if the arbitrator has integrated the training with their established expertise in a field. Through mentoring, new arbitrators will have an opportunity to observe seasoned professionals and to become familiar with the actual arbitration process. New arbitrators will be able to observe the flow of arbitration, learn effective and appropriate arbitration styles, watch case management techniques in action, and develop an appreciation for proper arbitration temper and deportment. In addition, through the experience of being a mentor, mentors will refresh their thinking about arbitration, refine their skills and be reminded of the practical and philosophical issues confronting new arbitrators.*

Mentoring and evaluating arbitrators pursuant to Rule 8 shall substantially comply with this Guideline.

- A. The mentoring and evaluation process shall include:

1. Successful completion of a minimum of eight hours of basic training and successful evaluation in a role-play situation;
  2. Observing a minimum of two actual arbitration cases conducted by an experienced arbitrator and discussing the arbitrations with the mentor;
  3. Being observed arbitrating a minimum of one actual arbitration case and discussing the arbitration with the mentor; and
  4. Assessing the progress of the arbitrator, recommend next steps, and determine when the mentoring requirement has been successfully completed. The requirement shall be satisfied when the mentor determines that the arbitrator demonstrates competence using the standardized skill evaluation checklist.
- B. The mentoring and evaluation process may be conducted by a training program, arbitration program, or independent mentor/evaluator.

### **III. Arbitrator Skills Checklist**

The following list of observable behaviors is not intended as an exhaustive list, but as a reflection of the minimum requirements for basic arbitrator competency. The skills evaluation checklist should be used to evaluate arbitrators during training, evaluation or mentoring:

1. Introduces and explains process to all in attendance at hearings
2. Reviews arbitration clause and determines extent and limitations of authority as arbitrator
3. Conducts a fair and efficient hearing
  - a. Parties present all relevant evidence
  - b. Parties allowed to ask questions
  - c. Arbitrator asks clarifying questions and does not act as an advocate
4. Reviews all documents submitted and shares with all parties in attendance
5. Manages process to prevent unnecessary delays
6. Maintains neutrality during process
7. Communicates with parties utilizing language that parties could comprehend and answer accordingly
8. Is attentive to parties during hearing
9. Is objective and does not have any appearance of bias
10. Is evenhanded and allows parties an equal opportunity to present their positions on any issue
11. Is on time for hearing and punctual from return from breaks and lunch, and schedules a full day of hearing
12. Inquires of all parties whether they have any further information to offer or witnesses
13. Declares the hearings closed and set deadlines for briefs, if any
14. Sets specific date for the delivery of the award



#### **IV. Alternative Methods for Arbitrators**

Arbitrators may meet the requirements of Rule 8 by the alternative methods set forth in this section.

- A. Training Requirements. An arbitrator may meet the training requirement by providing an approved program with satisfactory evidence that he or she has:
1. Completed a basic arbitration training of at least eight hours, which is substantially equivalent to a course that meets the standards set forth in Rule 8 and these Guidelines, in another state or before the qualifications standards became effective, or taught such a course as a lead trainer;
  2. Taken or taught a training course in the ethical standards set forth in Rule 9 of the Uniform Rules or substantially similar standards, and taken or taught a court orientation course substantially similar to the orientation required by Rule 8, before the Uniform Rules became effective; and
  3. Either taken or taught a specialized training course as required by any Trial Court Department in which he or she is practicing.
- B. Mentoring and Evaluation Requirements. An arbitrator may meet the mentoring or evaluation requirement or both by submitting to an approved program satisfactory evidence that he or she:
1. In a substantially equivalent process, was evaluated or mentored, or served as an evaluator or mentor, as applicable, before the qualifications standards became effective; and
  2. Formally arbitrated at least three substantial disputes in the three years proceeding the date of application.

#### **CONCILIATORS**

##### **I. Guidelines for Training Conciliators, Including Curriculum Outline**

Training of conciliators pursuant to Rule 8 shall substantially comply with these Guidelines.

- A. Basic Training
1. The training program shall include a minimum of eight hours.
  2. The Curriculum Outline shall include:
    - a. Program processes and procedures
    - b. The Uniform Rules on Dispute Resolution, with an emphasis on the

- ethical standards
- c. Court and program guidelines for conducting conciliations
- d. Dispute resolution techniques and the application of those techniques to the conciliation program
- e. ADR processes and procedures
- f. Roles of the parties, conciliator, court and approved program in the conciliation process, including potential interactions between the conciliator and the Court in the conciliation process
- g. Common procedural and substantive issues that conciliators in particular courts may face, including but not limited to such areas as common evidentiary problems or questions concerning damages

## B. Court Orientation

Court orientation shall prepare conciliators to conduct conciliations within the judicial system, and shall include:

1. An explanation of the structure and processes of the courts;
2. An overview of the Uniform Rules on Dispute Resolution, with special emphasis on the guiding principles, the ethical and qualification standards for neutrals, and the administrative responsibilities of neutrals, programs and courts, under the rules; and,
3. When feasible, an introduction to the particular court or courts for which the conciliator will be providing services.

## II. Conciliator Skills Checklist

The following list of observable behaviors is not intended as an exhaustive list but as a reflection of the minimum requirements for basic conciliator competency. The skills evaluation checklist should be used to evaluate conciliators during training and continued evaluation of performance by the program.

1. Introduces and explains conciliation process and conciliator's role to the parties
2. Discloses any prior contacts or relationships with parties and/or counsel and any prior knowledge of the facts of the case
3. Explains any reporting requirements of the court regarding the outcome of the conciliation process
4. Demonstrates knowledge of litigation process and procedure
5. Investigates facts impartially
6. Is evenhanded and allows parties an equal opportunity to present their positions
7. Shows effective questioning style that draws out information without putting parties on the defensive
8. Listens carefully and clarifies parties interests and
9. Analyzes and understands the issues involved in the case

10. Assesses the strengths and weaknesses of each side of the case
11. Explores prospects for settlement and helps parties generate realistic
12. Provides suggestions on future steps to take in the litigation of the case and preparation for trial
13. Explains the basis of his or her opinions and suggestions
14. Uses neutral and professional language, tone, demeanor and body language
15. Maintains neutrality and impartiality
16. Manages the interaction between the parties patiently, respectfully and effectively
17. Administers and manages a fair and efficient conciliation proceeding
18. Demonstrates effective time management and prevents unnecessary delays

### **III. Alternative Methods for Conciliators**

A conciliator may meet the training requirements of Rule 8 by providing an approved program with satisfactory evidence that he or she has:

1. Completed a basic conciliator training of at least eight hours, which is substantially equivalent to a course that meets the standards set forth in Rule 8 and these Guidelines, in another state or before the qualifications standards became effective, or taught such a course as a lead trainer;
2. Taken or taught a training course in the ethical standards set forth in Rule 9 of the Uniform Rules or substantially similar standards, and taken or taught a court orientation course substantially similar to the orientation required by Rule 8, before the Uniform Rules became effective; and
3. Either taken or taught a specialized training course as required by any Trial Court Department in which he or she is practicing.

## **CASE EVALUATORS**

### **I. Guidelines for Training Case Evaluators, Including Curriculum Outline**

***Philosophy:** The qualification standards for a case evaluator require bar membership and trial experience either as an attorney or judge for specified periods of time. In order for a case evaluation to be effective the individual evaluator must have sufficient experience to gain the respect of the parties and their attorneys. The training of case evaluators assumes that the individual being trained has the substantive expertise and experience necessary to perform an evaluation. The training curriculum should concentrate on the procedures to be followed in a case evaluation. The training program should also address various techniques used by skilled evaluators in arriving at an evaluation of a case.*

Training of case evaluators pursuant to Rule 8 shall substantially comply with these Guidelines.

A. Basic Training

1. The training program shall include:
  - a. Minimum of eight hours; and
  - b. Minimum of two evaluation role-plays with trainer as observer
2. The curriculum outline shall include:
  - a. Discussion of disclosure requirements and ethical considerations
  - b. Pre-evaluation case management
  - c. Managing the case evaluation process
  - d. Evaluation preparation and content requirements for evaluation
  - e. Review of evaluation by trainer
3. Evaluation in a role-play situation:
  - a. Shall occur at the end, or after completion, of a minimum of eight hours of basic evaluation training and shall be based upon the performance of the case evaluator;
  - b. Shall be provided by the training team during the training or within a reasonable time after the conclusion of the basic training or separately by a program approved to provide case evaluation services;
  - c. Shall apply criteria for successful completion of required evaluation using the Case Evaluator Skills Checklist set forth in section III;
  - d. A prospective case evaluator may be given more than one opportunity to achieve a successful evaluation

B. Court orientation

Court orientation shall prepare case evaluators to conduct case evaluation within the judicial system, and shall include:

1. An explanation of the structure and processes of the courts;
2. An overview of the Uniform Rules on Dispute Resolution, with special emphasis on the guiding principles, the ethical and qualification standards for neutrals, and the administrative responsibilities of neutrals, programs and courts, under the rules; and,
3. When feasible, an introduction to the particular court or courts for which the case evaluator will be providing services.

## II. Guidelines for Mentoring and Evaluation

**Philosophy:** *Case evaluators learn their skills by practicing in a supportive atmosphere. Evaluation of case evaluators is based primarily on competency as demonstrated in coached role-plays. Case evaluation mentoring allows the trainee to demonstrate his/her competency to integrate the lessons from his/her training into actual practice.*

Mentoring and evaluation pursuant to Rule 8 of the Uniform Rules shall substantially comply with this guideline.

A The mentoring and evaluation process shall include:

1. Successful completion of a minimum of eight hours of basic training and successful evaluation;
2. Observing a minimum of one actual case evaluation conducted by a skilled case evaluator who conducts a debriefing session with the case evaluator candidate;
3. Performing one actual case evaluation, with or observed by a skilled case evaluator who conducts one debriefing session with the case evaluator candidate and provides the program with an evaluation of the competency of the case evaluator using the Case Evaluator Skills check list set forth in section III; and
4. Assessing the progress of the case evaluator, recommending next steps, and determining when the mentoring and evaluation requirement has been successfully completed. The requirement shall be satisfied when the mentor determines that the case evaluator demonstrates competence using the skills evaluation checklist.

B. The mentoring and evaluation process may be provided by a training program, a program approved to provide case evaluator services or by an independent mentor.

## III. Case Evaluator Skills Checklist

**Philosophy:** *Case evaluators have an obligation to the public and the profession to conduct their practice in a competent and ethical manner. Central to the code of behavior required of case evaluators is a commitment to and respect for the parties and the case evaluation process. Central also is the personal integrity with which each mediator and mini-trial neutral enhances the quality of the process. The following list of observable behaviors is not intended as an exhaustive list, but as the minimum requirement for case evaluator competency.*

At a minimum in order to be qualified, a case evaluator should demonstrate the following skills:

1. The ability to introduce and explain the case evaluation process to all participants in the process
2. The ability to conduct an evaluation fairly and efficiently allowing parties to present all relevant evidence
3. The ability to ask clarifying questions without acting as an advocate for either party
4. The ability to manage the process to prevent unnecessary delays
5. The ability to maintain neutrality during the process
6. The ability to be evenhanded and to allow parties an equal opportunity to present their positions on any issue
7. The ability to fairly and efficiently manage a case evaluation proceeding
8. The ability to hear parties presentations and review the evidence presented and render an evaluation of the case on the merits, which includes either a prediction of the outcome if the case were tried on the merits or an opinion as to the reasonable settlement value of the case
9. Familiarity with the case evaluation process and civil procedure in general
10. Familiarity with the litigation process

#### **IV. Alternative Methods for Case Evaluators**

Case evaluators may meet the requirements of Rule 8 by the alternative methods set forth in this section.

- A. Training Requirements. A case evaluator may meet the training requirement by providing an approved program with satisfactory evidence that he or she has:
  1. Completed a basic training course which is substantially equivalent to a course that meets the standards set forth in Rule 8 and these Guidelines, in another state or before the qualifications standards became effective, or taught such a course as a lead trainer;
  2. Taken or taught a training course in the ethical standards set forth in Rule 9 of the Uniform Rules or substantially similar standards, and taken or taught a court orientation course substantially similar to the orientation required by Rule 8, before the Uniform Rules became effective; and
  3. Either taken or taught a specialized training course as required by any Trial Court Department.
- B. Evaluation and Mentoring Requirements. A case evaluator may meet the mentoring or evaluation requirement or both by submitting to an approved program satisfactory evidence that he or she:
  1. In a substantially equivalent process, was mentored or evaluated by a court program, or served as a mentor or evaluator, before the qualifications standards became effective; and

2. Formally evaluated at least five substantial disputes in the three years preceding the date of application.

## **MINI-TRIAL NEUTRALS**

### **I. Guidelines for Training Mini-Trial Neutrals**

***Philosophy:** Basic mediation and mini-trial training emphasizes interactive participation and encourages “learning by doing” in a constructive and supportive atmosphere. It includes a mixture of theory and practice that enhances the performance of trainees and provides a variety of learning techniques that reflects a sensitivity to individual learning styles. Lecture and role-play content covers basic considerations in the types of disputes addressed by the mini-trial program.*

Mini trial neutrals are required by Rule 8(g) to successfully complete the training required for mediators and the training required for case evaluators.

- A. The mediation training shall substantially comply with the requirements set forth in Rule 8(c)(i) and section I of the Guidelines for Implementation of Qualification Standards for Mediators.
- B. The case evaluator training shall substantially comply with the requirements set forth in Rule 8(f)(ii), and section I of the Guidelines for Implementation of Qualifications Standards for Case Evaluators.

### **II. Guidelines for Mentoring and Evaluation**

***Philosophy:** Mediators and mini-trial neutrals learn their skills by practicing in a supportive atmosphere. Evaluation of mediators and mini-trial neutrals is based primarily on competency as demonstrated in coached role-plays. Mediation and mini-trial mentoring allows the candidate to demonstrate his/her competency to integrate the lessons from training into actual practice.*

- A. The mentoring and evaluation process for mini-trial neutrals shall include:
  1. Successful completion of a minimum of thirty hours of basic mediation training, eight hours of basic case evaluator training, and successful evaluation;
  2. Observing one actual mini-trial conducted by an experienced mini trial neutral who conducts a debriefing session with the mini-trial neutral candidate;
  3. Performing one actual mini-trial with or observed by a skilled mini-trial neutral who conducts a debriefing session with the mini-trial neutral candidate and provides the program with an evaluation of the competency of the mediator candidate using the Mini-Trial Skills Checklist set forth in section III; and

4. Assessing the progress of the mini-trial neutral, recommending next steps, and determining when the mentoring and evaluation requirement has been successfully completed. The requirement shall be satisfied when the mentor determines that the mini-trial neutral demonstrates competence using the skills evaluation checklist.
- B. The mentoring and evaluation process may be provided by a training program, a program approved to provide mini-trial services or by an independent mentor.

### **III. Mini-Trial Neutrals Skills Checklist**

***Philosophy:** Mediators and mini-trial neutrals have an obligation to the public and the profession to conduct their practice in a competent and ethical manner. Central to the code of behavior required of mediators and mini-trial neutrals is a commitment to and respect for the parties and the mediation and mini-trial processes. Central also is the personal integrity with which each mediator and mini-trial neutral enhances the quality of the process.*

The following list of observable behaviors is not intended as an exhaustive list but as a reflection of the minimum requirements for basic mini-trial neutral competency. The skills evaluation checklist should be used to evaluate mini-trial neutrals during training, mentoring and evaluation, and continuing evaluation by the program.

1. Introduces and explains the mini-trial process, including his/her role and the roles of individuals in attendance at mini-trial
2. Works with the parties to structure the mini-trial process to meet the needs of the case
3. Moderates the exchange of information, such as briefs, documents, and exhibits, between the parties effectively
4. Ensure that parties are able to fully present their interests and positions
5. Is attentive to parties and management representatives during mini-trial
6. Provides an oral or written opinion as to the likely outcome at trial of the issues raised during the mini-trial
7. Ability to manage the interaction between the parties patiently, respectfully and effectively
8. Ability to maintain neutrality and impartiality during mini-trial process
9. Ability to manage the mini-trial process fairly and efficiently
10. Exhibits effective mediation skills throughout the process (see Mediator Skills Checklist)

### **IV Alternative Methods for Mini-Trial Neutrals**

Mini-trial neutrals may meet the requirements of Rule 8 by the alternative methods set forth in this section.

- A. Training Requirements. A mini trial neutral may meet the training requirement by providing an approved program with satisfactory evidence that he or she has:



1. Completed a basic mediation training of at least thirty hours, and a basic case evaluation training of at least eight hours, both of which are substantially equivalent to a course that meets the standards set forth in Rule 8 and these Guidelines, in another state or before the qualifications standards became effective, or taught such courses as a lead trainer;
  2. Taken or taught a training course in the ethical standards set forth in Rule 9 of the Uniform Rules or substantially similar standards, and taken or taught a court orientation course substantially similar to the orientation required by Rule 8, before the Uniform Rules became effective; and
  3. Either taken or taught a specialized training course as required by any Trial Court Department in which he or she is practicing.
- B. Evaluation and Mentoring Requirements. A mini-trial neutral may meet the mentoring or evaluation requirement or both by submitting to an approved program satisfactory evidence that he or she:
1. In a substantially equivalent process, was mentored or evaluated, or served as a mentor or evaluator, as applicable, before the qualifications standards became effective; and
  2. Formally presided over at least five cases in the three years preceding the date of application as a mini-trial neutral.

## **SUMMARY JURY TRIAL NEUTRALS**

### **I. Summary Jury Trial Neutral Skills Checklist**

The following list of observable behaviors is not intended as an exhaustive list but as a reflection of the minimum requirements for basic Summary Jury Trial Neutral competency. The skills evaluation checklist should be used to evaluate summary jury trial neutrals during continuing evaluation by the program.

1. Convenes, introduces and explains the summary jury trial process, including his/her role, the role of the jury and of others in attendance at summary jury trial
2. Demonstrates knowledge of summary jury trial process and procedure
3. Demonstrates knowledge of litigation and trial process and procedures
4. Works with the parties to structure the summary jury trial to meet the needs of the case
5. Moderates the exchange of information between parties, such as briefs, documents, and exhibits
6. Introduces party presentations to the jury
7. Ensure that each party is able to fully present their case to the jury without interruption

8. Crafts jury instruction with the parties effectively
9. Instructs the jury on the law relevant to the case on trial in a clear and understandable manner
10. Receives and relates the jury's non-binding verdict to the parties
11. Facilitates communication between the parties and jurors effectively
12. Is attentive to parties and jurors during the summary jury trial
13. Ability to manage the interaction between the parties patiently, respectfully and effectively
14. Ability to maintain neutrality and impartiality during summary jury trial process
15. Ability to manage the summary jury trial process fairly and efficiently
16. Exhibits effective mediation skills during the mediation phase of the summary jury trial if the parties opt for mediation. (See Mediator Skills Checklist)

## **DISPUTE INTERVENORS**

[RESERVED: PENDING FURTHER REVIEW AND APPROVAL]