

## **THE CIVIL MEDIATOR ROSTER**

In March 1997, the Dispute Resolution Office (“DRO”) of the Ministry of Justice (previously Ministry of the Attorney General) initiated a consultation process regarding the creation of a province-wide Roster of mediators. As a result of that consultation, the British Columbia Mediator Roster Society (“Society”), now known as the Mediate BC Society, was incorporated. In May 1998, the Society began operating a province-wide Mediator Roster (“Roster”) with the administrative support of the DRO.

Increased public support for, and public use of, mediation dictates the need for ready public access to mediators with objectively verified and adequate levels of training and experience. The Roster operates as a central and accessible list of trained and experienced mediators. In its initial form, the Roster primarily supported the use of mediation for civil/non-family cases in the British Columbia Supreme Court. As of June 2002 it expanded to create a list of mediators for family disputes.

The Roster is operated by the Society. A Board of Directors, drawn from leading practitioners in the field, is responsible for governing the operation of the Roster. Through a Roster Committee the Board assesses applications for admission to the Roster. The Board establishes such rules and policies as are necessary to facilitate the objective of maintaining an accessible roster of qualified mediators.

Essentially, the Civil Roster is a way to organize and distribute information to the public about mediators who meet a minimum set of criteria. By defining a minimum level of training and experience the Roster provides a measure of protection to the public. At the same time, the Roster provides guidance for mediators about acceptable levels of training and, by defining standards of conduct, ensures a common understanding of standards for ethical practice.

## **MEDIATOR QUALIFICATIONS**

### **1. Training and Education Requirements**

- a) 80 hours of core education<sup>1</sup> in conflict resolution and mediation theory and skills training – 40 hours of which are specifically focused on mediation including 10 hours of simulated or role play mediation under supervision [Please note: in the opinion of the Roster Committee, regular and ongoing training is essential for mediation practice; therefore courses taken more than 10 years ago may not qualify.]; and
- b) 100 additional hours of related training in dispute resolution or in a related field. A related field will be interpreted to include substantive professional disciplines such as law, social work,

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<sup>1</sup> See Appendix for definitions.

and psychology, or any other discipline involving a significant element of negotiation, communication skills, conflict management, etc.; and

- c) for non-lawyers, a minimum of 2 days (14 hours) of instruction in civil procedure; and
- d) 12 hours (including at least 7 hours of formal structured learning) per year of ongoing professional development or continuing education, defined to include courses, conferences, workshops, coaching, mentoring or supervising mediation trainees.

## **2. Experience Pre-requisites**

- a) Completion of a minimum number of civil mediations as a sole mediator, co-mediator or co-participant in an accepted practicum, being:
    - (i) 10 fee paid private mediations, or
    - (ii) 10 mediations in a structured setting with an accepted mediation organization; or
    - (iii) 10 mediations in a supervised and accepted practicum; or
    - (iv) 10 pro bono mediations in a structured setting; or
    - (v) 10 fee paid private co-mediations in which:
      - a) the applicant actively participated in and shared responsibility for managing the mediation process;
      - b) the applicant did not act primarily as an observer; and
      - c) at least one of the mediators received some monetary consideration for the mediation services.
- \*\*Applicants must indicate the number of co-mediations and the identity of all co-mediators.*
- (vi) a combination of the above.

Applicants will be asked to provide details about their mediation experience, such as when they began mediating, what kinds of issues they have mediated, the mediation field they are experienced in, and in what settings they have mediated (e.g. as an employee, in private practice, etc.)

- b) Acceptability demonstrated by 2 positive references from individuals who have observed the applicant's work as a mediator, and are familiar with their mediation skills and commitment to mediation. References must be current, that is, written to support the application (using the Society's Letter of Reference form or, if submitted in a letter, addressing each point on the form) and must refer to their work as a civil mediator within the last five years. References cannot be from immediate relatives or business partners; references can be from all other participants involved in the applicant's mediations, except the actual complainant, respondent, plaintiff or defendant, unless they are repeat participants. The person providing a reference must be familiar with the mediation process, and must have observed you acting as mediator at a mediation and not as counsel at a mediation.

*Please note: As of June 2010, the Court Mediation Program (CMP)'s Detailed Feedback Forms from mediations #8, #9 and #10 are accepted in lieu of the two references usually required for Civil Roster applications\*. These may be sent directly to Mediate BC's Mediator*

*Roster office by the applicant. Additional references may be given but all applicants relying on the practicum program for mediation experience are required to submit these feedback forms.*

*\*Any former CMP students who have completed the CMP prior to June 2010 and who are applying to the Civil Roster relying on mentor feedback for their references must still provide two (2) written references using the Mediate BC Letter of Reference template form.*

### **3. Character and Fitness**

Mediators must satisfy the Society that they are of good character and repute, and are fit to conduct mediations in a competent and effective manner, and in compliance with the Standards of Conduct endorsed by the Board of Directors of the Society.

### **4. Code of Conduct**

As a condition of admission to the Civil Roster, mediators must subscribe to the said Standards of Conduct ([http://www.mediatebc.com/PDFs/1-28-Standards-of-Conduct/Standards\\_Conduct.aspx](http://www.mediatebc.com/PDFs/1-28-Standards-of-Conduct/Standards_Conduct.aspx)).

### **5. Insurance**

Mediators must have adequate liability insurance:

- (i) for mediators not licensed to practice law, professional liability insurance coverage of \$2,000,000.00 aggregate (and \$1,000,000 per occurrence);
- (ii) for lawyers whose mediation work is not insured through the Law Society, professional liability insurance coverage of \$2,000,000.00 aggregate (and \$1,000,000 per occurrence);
- (iii) members in good standing of the Law Society of B.C., and whose mediation work is insured through the Law Society, are assumed to be adequately covered.

### **6. Additional Discretionary Requirements**

- a) The Roster Committee will, on occasion, ask for an interview as part of the admission process.
- b) Additionally, in the course of considering an application, the Roster Committee may:
  - (i) receive or request further information or submissions from an applicant;
  - (ii) decide when extensive experience and established credibility in a community of users of mediation services can substitute for mediation training or for instruction in civil procedure;
  - (iii) request additional evidence demonstrating that requirements have been met;
  - (iv) make admission to the Civil Roster provisional, conditional, or on terms;
  - (v) require that a mediator's experience be with respect to issues appropriate to the Supreme Court civil, non-family, context.

- c) The Roster Committee reserves the right to refuse admission to an applicant despite the fact that the applicant meets the technical requirements for admission. In such situations the Committee will offer the applicant an interview prior to making a decision to refuse admission.

### **APPLYING ROSTER CRITERIA**

In cases where applicants have qualifications that are not identical to those laid out above but are, in the opinion of the applicant, at least equivalent, the Roster Committee can be asked to consider the proposed qualifications and exercise discretion to admit the applicant.

The Society, through the Roster Committee and Board of Directors, will be responsible for monitoring qualifications for admission in order to determine adjustments or changes, to be made from time to time. It is expected that over time, as mediation matures as a discipline and as more is learned about mediator qualification, the criteria for admission to the Civil Roster will change.

### **APPLICATION PROCESS**

- a) Mediators wishing to be admitted to the Civil Roster will pay a one-time, non-refundable application fee and thereafter renew their membership annually:
- (i) For applicants who are *not* members of the Family Roster, the application fee will be \$246.75 + 5% GST for a total of \$259.09 and the annual membership fee will also be \$246.75 + GST.
  - (ii) For applicants who are members of the Family Roster, the application fee will be \$131.25 + 5% GST for a total of \$137.81 and the annual membership fee will also be \$131.25 + 5% GST, provided membership on the Family Roster is maintained. ***Annual membership on both Rosters will be \$351.75 + 5% GST for a total of \$369.34.***
- b) An applicant who is refused admission may reapply at any time, provided the Roster Committee has not specified otherwise.
- c) Persons interested in submitting an application for admission to the Civil Roster should contact:

**Mediate BC Society**  
**Attention: Mediator Roster Program**  
**Suite 177 – 800 Hornby Street**  
**Vancouver, BC V6Z 2C5**  
**Phone: 604-684-1300**  
**Toll Free in BC: 1-877-656-1300**  
**Fax: 604-684-1306**  
**E-mail: [mediators@mediatebc.com](mailto:mediators@mediatebc.com)**

## APPENDIX – DEFINITIONS

1. "Core education" means teaching or training in mediation. Such training is "core" when it deals centrally (not only peripherally) with the consensual, non-adversarial, resolution of conflict or disputes. "Core" does not imply only basic or threshold training, however. Core education is comprehensive, that is, may cover all the theories, concepts and skills associated with the teaching or training of mediators.
2. Core education in "conflict resolution and mediation" means education which supports learning and skills in mediation defined broadly. Thus anger management education may qualify to the extent it is taught in the context of mediation (as distinct from some other practice or activity). Likewise, arbitration or social work or other education may qualify only to the extent that it directly supports mediation education and skills.
3. "Theory and skills training" modifies (describes) the words "conflict resolution and mediation". Course work of a purely theoretical nature (studies done solely for academic or research purposes, not particularly in support of mediation practice, for instance) may not qualify. Theoretical, philosophical and reflective courses or segments of courses that directly contribute to, and inform, the skills and frameworks of mediation practice will qualify.
4. "Specifically on mediation" means that the learning objective of the 40-hour portion referred to deals with mediation centrally. Incidental segments of the course concerned with, for example, negotiation, anger, conflict resolution or arbitration/conciliation are not to be deducted from the 40 hour computation.
5. "Simulated or role play" means any mock mediation practice session which is part of a mediation course in which participants are coached or otherwise directly supervised.
6. Practicums do not constitute course work or education which the Society accepts as core education and training. They do, of course, qualify for the requisite experience if the other criteria of that section are met. They also qualify for continuing education.