

# CHAPTER 1 - INTRODUCTION

## **About the Training**

The training material for the Conciliation training program is based on material originally created by the Massachusetts Office of Dispute Resolution (MODR) for the Trial Court Standing Committee on Dispute Resolution. Rule 8 of the Uniform Rules on Dispute Resolution (SJC Rule 1:18) was promulgated by the Supreme Judicial Court in November of 2003 and became effective on January 1, 2005. Rule 8 mandates qualification standards for all neutrals in court-connected dispute resolution. The training requirements for conciliation are 8 hours of training for attorneys in good standing with the Board of Bar Overseers with more than 3 years in the practice of law in Massachusetts. In addition to Rule 8, the Chief Justice for Administration and Management issued Guidelines for Implementation of Qualification Standards for Neutrals. Together, Rule 8 and the Guidelines set forth the training requirements for court-connected neutrals.

To implement the new training requirements for conciliators, the Trial Court created uniform conciliation training materials. First in 2004, MODR created a "train the trainers" manual and program sponsored by the Trial Court. The free training was offered to all approved conciliation programs to assist the training of their conciliators. The training was held for programs to send their own trainers so they could then go back to their program and train its neutrals, thus the "train the trainers" moniker. Attorney Eugene Nigro attended the "train the trainers" program and subsequently trained the conciliators at the Essex Division of the Probate and Family Court Department. Since then, Attorney Nigro has been involved in training numerous bar associations on the qualification standards for conciliators in the District Court and the Probate and Family Court Departments. Over time, Attorney Nigro has expanded and modified the original conciliation training material created by MODR.

The current conciliation training curriculum and related materials are a blend of the original MODR program with updated and adapted material by Attorney Nigro and the ADR Coordinator for the Trial Court. All the materials for the training have been reproduced with the permission of the authors and/or acquired by the Trial Court through other dispute resolution training initiatives.

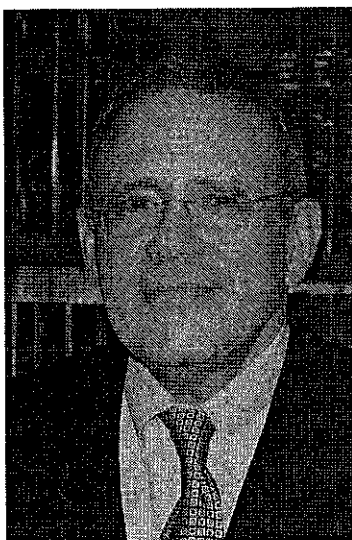
The training is presented in modules, with each module covering an aspect of the basic training curriculum for conciliators, as required by the Guidelines. The goals of the training are to (1) promote a shared understanding of the conciliation process, the role of the conciliator and best practices for conciliators; (2) enhance the knowledge and understanding of conciliation operations, duties and relationship with the court; and (3) build conciliator skills and awareness of strategies for effectively managing the process and to facilitate settlement. The format of the training combines presentations, interactive discussions, small and large group exercises and role plays. The objective of the training is to have active participation of the participants drawing on their experience and expertise to inform the conciliation process.

## LEAD TRAINER BACKGROUND INFORMATION

**Eugene A. Nigro, Esq.**, is a member of the law firm of Nigro, Pettepit & Lucas, LLP, in Wakefield, Massachusetts, where he focuses his practice on probate and family law. His domestic relations practice includes litigation, conciliation, mediation, arbitration, antenuptial agreements, divorce, custody and modifications. He is a graduate of Clark University, in Worcester, and a graduate of New England School of Law.

Eugene has been a conciliator with the Essex County Bar Association since 1998 and with the Middlesex County Bar Association since the inception of its Conciliation Program. He serves as Lead Trainer in both Essex and Middlesex Counties. Eugene has worked as a trainer and mentor, helping to establish Conciliation Programs in Barnstable, Bristol, Berkshire and Worcester Counties. Eugene received his qualification as a Conciliation Trainer through the Massachusetts Office of Dispute Resolution (MODR). He is also a trained mediator. He provides conciliation services as a volunteer and mediation and arbitration services on a private pay basis.

Eugene's activities have been recognized by the Middlesex Bar Association. The First District Eastern Middlesex Bar Association has also awarded Eugene their First Annual Robert F. Lucas Award in recognition of his commitment to the legal system, devotion to community service, loyalty to his colleagues and compassion and respect for all. Additionally, Eugene has received the First Pro Bono Judicia Award given by Essex County Bar Association.



**Timothy M. Linnehan, Esq.**, is the Alternative Dispute Resolution (ADR) Coordinator for the Trial Court. He is the former Acting Director of the Support Services Department in the Office of Court Management for the Trial Court. As the Coordinator of ADR Services for the Trial Court, Tim serves on the Trial Court Standing Committee on Dispute Resolution. He has been a mediator since 1992 and a conciliator since 2005. In addition, he was the Coordinator for the Middlesex Community College Face-to-Face Mediation Program from 1993 to 1996. Mr. Linnehan is a former Assistant Attorney General and litigator in private practice. He is a former adjunct faculty member at Northern Essex Community College and Middlesex Community College. Mr. Linnehan holds a B.A. from Merrimack College, as well as a J.D. from Suffolk University Law School.

## **Rule 8 Conciliator Training Requirements**

### **Rule \*8 Qualification Standards for Conciliators:**

- Professional Qualifications
- *Training Requirements (8 hours)*
- Mentoring and Evaluation (*Program's discretion*)
- Continuing Education
- Continuing Evaluation
- [Alternative Methods & Limited Exemption]

### **Trial Court Guidelines for Training Conciliators:**

#### **Basic Training Content:**

- Uniform Rules on Dispute Resolution
- Conciliation and other ADR Processes
- Role of Conciliator as Neutral
- Ethical Standards for Conciliators
- Conciliator Process Issues
- Strategies for Promoting Settlement
- Conciliator Skills
- Court-Connected Conciliation Program
- [Court Orientation]
  - \* draw on group's experience & expertise

#### **Conciliator Skills Checklist:**

- Introduces process; discloses contacts; explains report requirements
- Demonstrates knowledge of litigation process
- Investigates facts impartially
- Provides equal opportunity for party presentations
- Shows effective questioning style
- Listens carefully and clarifies interests
- Analyzes issues; assesses strengths and weaknesses
- Explores prospects for settlement
- Provides suggestions on future litigation/trial prep steps
- Explains basis of opinions and suggestions
- Uses neutral language, tone, demeanor
- Maintains neutrality and impartiality
- Manages the interaction of parties effectively
- Administers fair and efficient proceeding
- Demonstrates effective time management

## Conciliator Skills Checklist

The following list of observable behaviors is no 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.

Evaluation Date: \_\_\_\_\_

Evaluator Name: \_\_\_\_\_

Conciliator Name: \_\_\_\_\_

Role Play Information: \_\_\_\_\_

Court Case Information: \_\_\_\_\_

\_\_\_\_\_  
(Name, docket #, number of parties, case type, etc.)

Outcome: \_\_\_\_\_

Rate the conciliator's skills using this scale: 1 = poor 2 = fair 3 = good 4 = excellent

Please elaborate as much as possible in your comments.

### Skills

1. Introduced and explained conciliation process and conciliator's role to the parties.

Score:

2. Discloses any prior contacts or relationships with parties and/or counsel and any prior knowledge of the facts of the case

Score:

3. Explains any reporting requirements of the court regarding the outcome of the conciliation process

Score:

4. Demonstrates knowledge of litigation process and procedure

Score:

5. Investigates facts impartially

Score:

6. Is evenhanded and allows parties an equal opportunity to present their positions

Score:

7. Shows effective questioning style that draws out information without putting parties on the defensive

Score:

**8. Listens carefully and clarifies parties interests**

Score:

**9. Analyzes and understands the issues involved in the case**

Score:

**10. Assesses the strengths and weaknesses of each side of the case**

Score:

**11. Explores prospects for settlement and helps parties generate realistic**

Score:

**12. Provides suggestions on future steps to take in the litigation of the case and preparation for trial**

Score:

**13. Explains the basis of his or her opinions and suggestions**

Score:

**14. Uses neutral and professional language, tone, demeanor and body language**

Score:

**15. Maintains neutrality and impartiality**

Score:

**16. Manages the interaction between the parties patiently, respectfully and effectively**

Score:

**17. Administers and manages a fair and efficient conciliating proceeding**

Score:

**18. Demonstrates effective time management and prevents unnecessary delays**

Score:

*Comments (areas where shows skills and needs improvement):* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_