



Mediation in Mexico ABA/USAID Information Packet

www.mediacionenmexico.org





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MEDIATION IN MEXICO PROJECT ABA/USAID

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Introduction

Mediation is a **non-adversarial, voluntary and flexible** process through which parties in conflict create their own solutions with the help of a mediator, an impartial third party. Mediators help parties to negotiate effectively by **facilitating communication** while adhering to principles of **equity, honesty and confidentiality**.

Mediators do not make decisions for the parties. Rather, they help the parties negotiate, utilizing a systematic, yet flexible methodology, while taking into account the **communication styles, emotions and interests** of those involved. In mediation, parties work together to resolve their conflicts in ways that address their unique concerns and needs.

In the long-term, mediation promotes a **culture of dialogue and peace** by enabling people to address conflict constructively and cooperatively.



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Background

In September 2001, the **Latin American Legal Initiatives Council (LALIC)** of the **American Bar Association (ABA)**, the **ABA Section of Dispute Resolution** and **Freedom House** began the **Mediation in Mexico Project (Project)** to advance the use of mediation in the country. The Project, funded by the **United States Agency for International Development in Mexico (USAID/Mexico)** serves as a catalyst to promote the use of mediation in Mexico. In collaboration with Mexican leaders in the field, the Project creates opportunities for **dialogue, learning and development** of mediation in the country.



At the national level, **seventeen states, the Federal District (Mexico City), the Supreme Court of Justice of Mexico** and other key national organizations and academic institutions are active Project participants. Leaders of the Executive and Judicial branches of participating states are members of an **Advisory Committee** that guides the administration and implementation of Project initiatives.

A **state and local strategic planning** effort was spearheaded by Advisory Committee members in their respective jurisdictions. Following local development of strategic plans, Project staff and consultants facilitated a collective planning process of the Advisory Committee. During this process, member jurisdictions developed a **national vision** for mediation in Mexico. Members then designed a collaborative process for maximizing resources to achieve their goals. Through frequent exchanges of stakeholders, and with the participation of mediation experts from the United States and other countries, the Project provides **technical and administrative assistance** to states and institutions as they implement their strategic plans.

The project provides opportunities for learning, dialogue and resource development to advance local and national mediation initiatives.

The Project:

- **Ensures local ownership** of initiatives by supporting the vision, leadership and decision-making of Mexican members.
- **Creates institutional alliances** among United States and Mexican organizations for purposes of enhancing the effectiveness of mediation legislation, regulations, training, materials and services.
- **Provides opportunities** for Mexican leaders in the mediation field to visit successful mediation programs in the United States and other countries.

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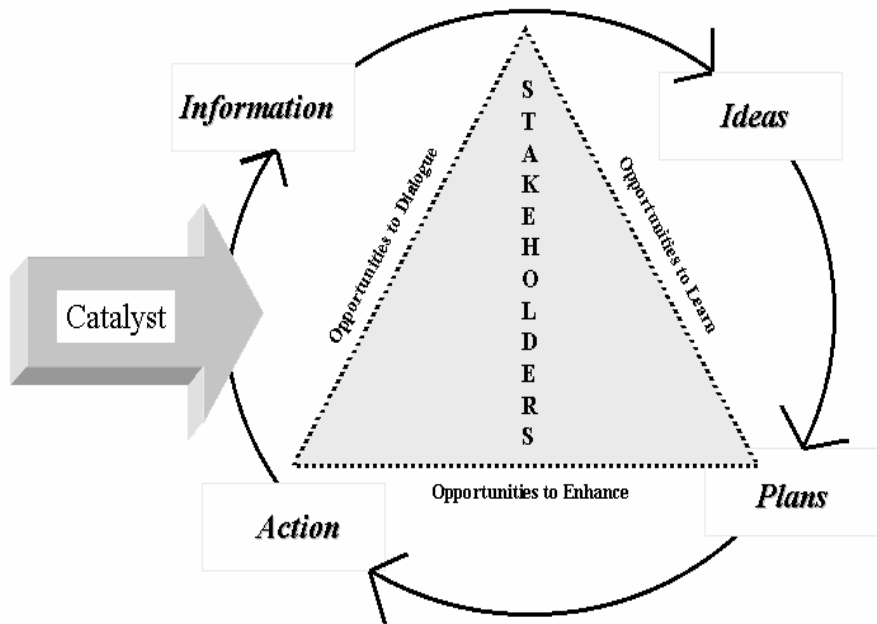
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- **Creates forums for dialogue to foster understanding** among judges, attorneys, mediation program administrators, legislators, academics and others. In these forums, participants share ideas, develop action plans and make decisions about mediation initiatives in Mexico.
- **Provides technical assistance** through national conferences; intensive workshops on topics including mediation legislation, program design and administration, and public relations; educational sessions for judges and lawyers; training for mediators and mediation trainers
- **Develops materials** on topics such as mediation theory, skills, standards, training and evaluation. Materials **include *Principles of Mediation, System Design Manual, Mediation Manual and Best Practices Manual***
- **Distributes information** through its newsletter and website.

**MEDIATION IN MEXICO PROJECT
IMPLEMENTATION STRATEGIES**



Stakeholders includes citizens, judges, lawyers, court personnel, mediation service providers, mediation trainers, mediators, academics, support institutions, other governmental and non-governmental organizations, USAID, project staff and consultants.



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Project Structure

Macarena Tamayo Calabrese, the Director of LALIC, directs and coordinates the Project. **Melinda Ostermeyer** and **Dawn Martin**, US and international mediation experts, are Project consultants. **Daniel Becker** of the ABA supervises the financial administration of the Project.

Three Mexican professionals are charged with directing Project activities. **Arjan Shahani Moreno**, Project Administrator, supervises daily operations. **Cecilia Azar Manzur** and **Rafael Lobo Niembro** are Project consultants based in the Federal District and Monterrey, Nuevo León, respectively.

The Project's training team also includes **Barbara Hulburt**, **Wallace Meissner**, **Thelma Butts Griggs**, **Doel Quiñones** y **Mildred Negrón**, each of whom has extensive dispute resolution experience.

Freedom House, a non-governmental organization with more than 40 years of experience supporting human rights and developing democratic systems, is a Project partner, as is the **Dispute Resolution Section of the ABA**.

Our Team

Macarena Tamayo-Calabrese, Project Director, is the Director of both LALIC and International Communications of the ABA General Counsel's Office.

As LALIC Director, Ms. Tamayo Calabrese is responsible for international rule of law projects focused on legal, judicial and educational reform. In her role as the Director of International Communications of the ABA General Counsel's Office, she works with bar associations and other attorney groups around the world on a wide range of issues of common interest.



Ms. Tamayo-Calabrese is a graduate of Hofstra Law School, New York. Prior to joining the General Counsel's office of the ABA, she practiced family and immigration law.

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Melinda Ostermeyer has twenty years of experience in the dispute resolution field. She designs and implements conflict management systems for organizations and has led mediation initiatives for judicial systems in more than twelve countries around the world. Currently she is a long-term consultant to the ABA on the Mediation Project in Mexico.



Ms. Ostermeyer facilitates strategic planning processes and trains professionals in negotiation, mediation and other collaborative techniques. She also mediates business, organizational, employment and other disputes. Ms. Ostermeyer provides conflict management, professional coaching and testing services (including Myers-Briggs Type Indicator) to individuals and organizations.

Ms. Ostermeyer was the director of two nationally recognized dispute resolution programs in the United States—the Multi-Door Dispute Resolution Division of the Superior Court of the District of Columbia and the Dispute Resolution Center of Houston, Texas. She has taught classes in mediation and negotiation in the Human Resource Department of American University, George Washington University and the Honors Program of the University of South Carolina.

Dawn Martin began her dispute resolution work twenty-five years ago as administrator and mediator of the District of Columbia Mediation Service, a program specializing in family and community dispute resolution. Subsequently, she founded a labor and immigration law firm. She practiced immigration law for ten years.



Since 1996, Ms. Martin has mediated family, organizational, civil, school and employment conflicts, among others. She is currently a long-term consultant to the ABA Mediation in Mexico Project. She has taught numerous courses in mediation, negotiation and advocacy in mediation for mediators, lawyers, judges and other professionals in the United States and abroad. Her international work includes consulting for mediation projects in Latin America and Africa.

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Cecilia Azar is a graduate of the Law School of the Universidad Nacional Autónoma de Mexico (UNAM) where she is currently pursuing a doctorate at the Legal Research Institute. Her legal practice has centered in the area of Commercial Arbitration and International Commerce. From 1995 until 2001, Ms. Azar worked in the firm of SAI Consultants. In addition, she served as General Secretary of the Arbitration Center of Mexico from 1998 until 2000. At present, she is a long-term consultant to the ABA on the Mediation in Mexico Project.



Ms. Azar has been a speaker at numerous seminars. She has also participated in roundtables in Mexico, the United States and Central America on the topic of Commercial Arbitration.

Rafael Lobo is the Founder and President of the Nuevo Leon Association of Mediators. He also serves as the editor of the Latin American Mediation and Arbitration Review, an on-line publication. Mr. Lobo is the Director of Mediation and Arbitration of the Nuevo Leon Bar Association and a member of the World Forum on Mediation. Currently, he is a long-term consultant to the ABA on the Mediation in Mexico Project. Mr. Lobo graduated from the Law and Criminology School of the Universidad Autónoma de Nuevo León. He practices law as a partner in the law firm Lobo, Graham y Asociados, S.C.



Arjan K. Shahani Moreno is a graduate of the International Relations Institute of the Tecnológico de Monterrey. He was founding president of the Latin American Chapter of the International Institute for Mediation and Conflict Resolution (IIMCR), an organization based in Washington, DC. Both in that capacity, and subsequently as an IIMCR Program Officer, Mr. Shahani directed the organization of the “Latin American Symposium on Negotiation and Conflict Resolution” of the Tec de Monterrey, a program that trains 100 young international mediators and negotiators. The symposium is a joint effort of the Department of International Relations of the Tecnológico de Monterrey, IIMCR and George Washington University. Currently, Mr. Shahani is the Project Administrator of the Mediation in Mexico Project of the ABA.



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Members of the ABA/USAID Mediation in Mexico Project

Through its Advisory Committee, the Project coordinates activities and efforts of the following states and institutions:

Member States

- **Aguascalientes**
 - Judiciary
 - Secretaría General de Gobierno
- **Baja California Sur**
 - Judiciary
 - State Attorney General
- **Chihuahua**
 - Secretary of State (state level)
- **Coahuila**
 - Judiciary
- **Colima**
 - Judiciary
- **Distrito Federal**
 - Judiciary
- **Guanajuato**
 - Judiciary
- **Jalisco**
 - Judiciary
 - Secretary of State (state level)
- **Michoacán**
 - Judiciary
- **Nayarit**
 - Judiciary



- **Nuevo León**
 - Judiciary
 - State Attorney General
- **Oaxaca**
 - Judiciary
- **Puebla**
 - Judiciary
- **Querétaro**
 - Judiciary
- **Quintana Roo**
 - Judiciary
- **Sonora**
 - Judiciary
 - State Attorney General
- **Tabasco**
 - Judiciary
- **Tamaulipas**
 - Judiciary



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Member Institutions

- **Supreme Court of Justice of the Nation**
- **Notary Center of Mediation**
- **Federal Institute of the Judiciary**
- **Mexican Mediation Institute**
- **Mexican Bar Association**

Participating Universities

- **Universidad Nacional Autónoma de Mexico: Legal Research Institute, School of Law and School of Economy**
- **Universidad de Guadalajara: School of Law**
- **Instituto Tecnológico Autónomo de Mexico: School of Law**
- **Universidad Iberoamericana: School of Law**



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Mediator Training

During its first year in operation, the Project facilitated a planning process to outline guidelines and principles for the practice of mediation in Mexico (*Principios de la Mediación* document). After developing this theoretical framework for the practice of mediation, the Project began to dedicate a significant amount of time and effort to the professional training of mediators in the country.

Among the **courses** offered by the Project are:

- Basic Mediator Training
- Mediation Center Design, Management and Operations workshop
- Train the Trainer and follow up Mentored Training courses
- Legislation on Mediation workshop

To date, the Project has provided training to more than 300 individuals. Those trained have been instrumental in professionalizing the practice of mediation in the country.

Prior to initiating the Project there were three court-annexed mediation centers in Mexico. Today, 18 court-annexed centers are fully operational. Mediators from all 18 centers have been trained by the Project.



Mediation Center Design, Management and Operations workshop. Distrito Federal, may 2004



MEXICO

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Project Materials

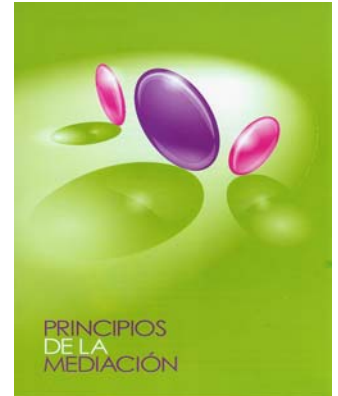
With the support of the Project's Advisory Committee, trainers, mediators and staff, a substantial amount of written material is now available on a range of mediation topics. These documents, provided to participants in Project trainings, serve as reference materials for mediation practitioners and other professionals throughout the country.

Some of these materials include:

- **Mediation Principles:** A document generated by the Advisory Board which provides guidelines and principles for the practice of Mediation. According to a consensus reached by our board, Mediation in Mexico should be:

- VOLUNTARY
- CONFIDENTIAL
- FLEXIBLE
- NEUTRAL
- IMPARTIAL
- EQUITABLE
- HONEST
- LEGALLY PERMISSIBLE

A complete document outlining these principles is available at www.mediacionemexico.org



- **Training Manuals:** Extensive volumes of information, case studies and mediation scenarios, used in our various training courses.

- **Newsletter:** Published quarterly, the newsletter is a resource used to inform members of Project developments. Members articles and local updates are also published in the newsletter. Past editions of the newsletter are available electronically at www.mediacionemexico.org.

- **Website:** Rapidly becoming Mexico's one-stop destination for information on mediation, the website is an interactive information-sharing, dialogue-building arena for Project members, as well as for the general public. Through its private section resources such as the chat room and discussion forum, Project members from different States remain in constant contact. In the site's public section, visitors have access to a Mediator's Toolkit, mediation legislation, a schedule of events, articles and statistics on the practice of mediation in the country, among others.



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STATE	COURT ANNEXED CENTERS OPERATING	LEGAL INFORMATION	STATES WHICH HAVE ALREADY UNDERGONE TTT TRAINING
Aguascalientes	✓	Mediation Law approved	✓
Baja California Sur	✓	Agreement of the Tribunal Pleno	✓
Chihuahua		Mediation Law approved	✓
Coahuila	✓	Agreement of the Tribunal Pleno	✓
Colima	✓	Mediation Law approved	✓
Distrito Federal	✓	Agreement of the Tribunal Pleno	✓
Guanajuato	✓	Mediation Law approved	✓
Jalisco			
Michoacán		Agreement of the Tribunal Pleno	
Nayarit			
Nuevo León		Mediation Law approved	
Oaxaca	✓	Mediation Law approved	✓
Puebla	✓	Agreement of the Tribunal Pleno and modification of internal laws in order to regulate mediation	✓
Querétaro	✓	Agreement of the Tribunal Pleno and Law proposal in Congress	
Quintana Roo	✓	Mediation Law approved	✓
Sonora	✓	Agreement of the Tribunal Pleno	
Tabasco	✓	Agreement of the Tribunal Pleno and modification of internal laws in order to regulate conciliation	✓
Tamaulipas			

Results in Mexico

- * 7 Basic Training courses: 168 participants trained.
- * 3 Mediation Center Design, Management and Operations workshops: 72 participants trained.
- * 1 Train the Trainer course: 12 participants trained.
- * 1 workshop on Mediation Legislation: 24 participants trained.
- * 1 workshop on Essential Mediation Principles. 24 participants trained.
- * 1 workshop “Most Common Barriers in a mediation process: secrets and strategies to overcome them”: 25 participants trained.



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* The creation of an effective and active network of people and institutions engaged in mediation initiatives throughout the country, strengthened by the private section of the Project website and its newsletter.

* A joint proposal of Advisory Committee members presented to the Mexican Supreme Court of Justice. The proposal addressed issues related to Mexican Judicial System reform, with particular emphasis on the national development of mediation and its use in the federal sector. In addition to the joint proposal, 12 individual proposals were submitted by Project participants. (All proposals are available on the Project's website.)

Mediation Operations in Mexico

Mediation is rapidly becoming an effective resource for the expeditious and fair administration of justice in Mexico. A sampling of mediation operations in various states follows:

Oaxaca

During its first year in operation, the court-annexed Mediation Center of Oaxaca opened 608 mediation cases. In its second year, this figure doubled to 1280. During that year, 2885 people received center services. The success rate (measured by mediations resulting in a positive agreement between parties) in this center is 75-80%. The center's dramatic success has renewed the level of trust in Oaxaca's legal system.

Puebla

The court-annexed Mediation Center in Puebla opened 1684 cases during its first year in operation. In the first half of its second year, the Center received 1108 and projected that figure to be doubled by the end the year. Of the cases received, to date, 81% were mediated, 2% were resolved during an orientation process and 7% were referred to other service providers. In cases scheduled for mediation, the participation rate was 90%.

The success rate (measured by mediations resulting in a positive agreement between parties) in this center is 89%.



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Guanajuato

In its first two months of operations, the Guanajuato Court Annexed Mediation Center received 500 requests for mediation. During the same period, 160 cases resulted in a positive agreement between the parties. Some cases received by this center had been in a litigation posture for more than ten years. In contrast, the average case is mediated within eight days of being filed with the center.

For further information on the ABA/USAID Mediation Project in Mexico, please contact

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