

AGENDA

November 19, 2020

1. The Mediation – Communication Strategies
2. Preparing the Agreement
3. Failure to Reach Agreement
4. Preparing for Mock Mediation
5. Module 1: Setting the Scene & Messaging
6. Module 2: Dealing with Party Advisors & Saving the Mediation
7. Mock Mediation Debrief
8. Day Two Q&A

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CHAT



Refresh & Reset

Please turn on your cameras and mics (if able) and let us know one lesson that resonated the most from yesterday's training or one strategy you're looking forward to today.

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#6

The Mediation – Communication Strategies

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Party Proposals

Hearing the proposal

If unreasonable or will be rejected, discuss ways to modify the proposal.

Be subtly evaluative.

Communicating a proposal

Avoid criticism of the proposal unless asked or unless you believe your opinion will not hinder further discussions.

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Techniques for Keeping the Parties Talking

Bracketing issues

Mediator's proposal

Time to consider

Risks of no agreement

Future administrative process

Less control over outcome

Time considerations

Emotional considerations

Healing

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Ethical Considerations

Conflicts of interest

Confidentiality

Pressuring to reach agreement

Subsequent disclosure of information

Appearance of impropriety

Disclosure of background

Impartiality

Mental competency of a party

Autonomy informed consent

Honesty

Role boundaries

Privileged communications

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Preparing the Agreement

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Memorialize the agreed upon resolution in writing signed by both parties

Acknowledgment that the parties are entering into the resolution agreement freely, voluntarily, and because each party believes entering into the agreement is in their best interest.

Acknowledgement that the parties' participation in the Informal Resolution Process was not required, not a product of coercion, nor was it a condition of continued enrollment or employment, or enjoyment of any other right.

Agreement to waive right to appeal

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Preparing the Resolution Agreement

Provide the agreed terms that may include:

Administrative remedies

Corrective or punitive measures for respondent

Non disclosure (confidentiality)

Non disparagement clause (essentially no retaliation)

Consequences for breach of the agreement.

Institutional record keeping responsibility

Institutional obligation to maintain confidentiality unless permitted by law

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Types of Remedies

Types of remedies, include but are not limited to:

Complainant or respondent relocate their housing

Complainant/Respondent withdraws from a class that the parties have together:

Respondent writes an apology letter to Complainant acknowledging harm caused

Indefinite mutual no contact order

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#8

Failure to Reach Agreement

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Failure to Reach Agreement

Explain..

The inability to reach an agreement does not mean we stop trying

Methods of continuing dialogue

Date certain to resume

Follow up phone conferences

Meeting with each party

Time to think

Time to consult others

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CHAT

Failure to Reach Agreement

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ACADEMIC IMPRESSIONS

#9

Preparing for the Mock Mediation

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ACTIVITY

Fact Pattern

Review of the Fundamentals



Questioning Techniques Review

Open ended questions

Encourages party to open up, vent and articulate

Allows story to be told

Who, what, when, where, why, how describe, explain, tell..

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Questioning Techniques Review(continued)

Closed or leading questions

Question suggests the answer

Confines response

Summarizes

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Probing questions

Exploring feelings, opinions, thoughts..

#12

Mock Mediation Debrief and Final
Q&A with Faculty

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QUESTIONS?

Thank you!

Please remember to complete the _____.
Your comments will help us continually improve the
quality of our programs