

ATTACHMENT 2 Roles & Responsibilities, Mediation Process & Administrative Matters

DON MEDIATION MODEL FOR TIER III AND MEDIATIONS

WHAT HOW

Parties: Name and Role in Mediation

Tier III Mentor:

Date:

Mediator:

Mediator's Opening Remarks			
Impartial (No stake in outcome...)			
Confidential – As your Mediator, it is			
Evidence F, W, A, SC, TPH..As Feds			
I will not willingly testify for/against			
Neither person waives any rights...			
Individual comments -Uninterrupted			
Joint discussion w/ questions			
Caucus with each participant (Confidential Opportunity/Options)			
Reconvene & assess proposals			
Your Agreement facilitative approach			
Read Consent to Mediate Form			
Review Bio and Addendum			
Evaluation – see # 9 – envelope			
Commend Participants			
Opening Comment by Participants			
Controlled interruptions			
Issues List General Summary			
Joint Discussion			
Explore Issues - All points of view			
Frame discussion for parties			
Ask open-ended questions			
Discover more issues - both parties			
Summarize joint discussion			
Caucus – private meeting with each			
Escort from room/take notes			
Explain confidential opportunity			
What would you like to share now?			
Explore issues and options			
Focus toward future			
Move from positions to interests			
Is subject matter expert needed			
Use reality checks effectively			
Establish that participant will present			
Summarize caucus			
Ask if anything kept confidential			
Reconvene			
Commend			
Guide discussion of proposals			
Resolution and Closure			
Address both participants needs			
Who-What-Where-When-How			
Communication Skills			
Neutral			
Body Language& Articulate			
Active Listening			
Paraphrasing			
Reframing/Lift the language			
Validating/reflect feeling			
Effective silence			
Facilitative Approach			
Balance Conversation Two Parties			
Ethical Behavior			
Mastery of Mediation Process			

Rev: 11/4/09

Successfully Completed Tier III: _____

Did Not Successfully Complete Tier III: _____



Attachment 4 TIER IV CO-MEDIATION EVALUATION FORM

THIS DOCUMENT WILL BE USED TO DETERMINE IF THE CANDIDATE WILL BE CERTIFIED - PLEASE PROVIDE YOUR COMPLETE RESPONSES TO REFLECT THE COMPETENCY OF THE CANDIDATE. FOLLOW THE SCALE TO MAINTAIN A CONSISTENT APPROACH TO EVALUATIONS.

SECTION I: BACKGROUND INFORMATION

Please type or print

1. Name of Mediator being evaluated (Mentee): _____
2. Name of Co-Mediator (Mentor): _____
3. Organization of Mentor: _____
4. Phone: _____ E-mail: _____

SECTION II: MEDIATION INFORMATION

1. Date(s) of Mediation: _____
2. a. Command: _____
b. Nature of case and major issues covered: _____
3. Length of mediation: _____
4. Resolution: yes no withdrawal Comments: _____
5. Which Tier IV co-mediation case is this for the candidate? (Circle) 1 2 3

SECTION III: MENTEE SKILLS

Please use the following rating scale to determine a rating for each category. Below the headings are listed several factors to consider in rating. Circle one. Under the "Comments" section, detail specifically development needed or successful areas. Mentees provide all Mediator opening comments, and participate fully in the process. The process is to provide professional ADR services to all customers with the goal of their mutually resolving the case. Facilitative mediation is the model of practice. Mentors are to ensure those requirements are not sacrificed within this co-mediation experience.

5 - Excellent
4 - Highly Competent
3 - Satisfactory

2 - Needs improvement
1 - Unacceptable

PLEASE TYPE OR PRINT CLEARLY - USE ADDITIONAL PAPER IF NEEDED

A. Introductions & Opening Comments *by Mentee*:

- Asked name & mediation role (bringing or responding to issues, representative/attorney).
- Called participants by their title and last name.

- **Introduced Co-Mediator & my(our) role & responsibilities, mediation process & administrative matters**

- **Introduced & explained my(our) role & responsibilities in the following areas:**
 - Impartiality: no stake in outcome & not give outcome advice
 - As your Mediators it is our duty to keep confidential the communication in mediation
 - Exception: Evidence of F, W, A, SC, TPH, as Federal employees, all of us have the duty to report
 - Neither person waives any rights to proceed in any forum, if your case does not resolve
 - We will not willingly testify for/against either of you in any forum
 - Asked if any questions on my/our role & responsibilities

- **Previewed & explained how the stages of the mediation process works**
 - Explained each party had uninterrupted time for a brief overview from his/her perspective
 - Explained will stand at board (or sit with paper) and create an agenda summarizing issues heard from each party, and how the summary will serve as a discussion framework
 - Explained Joint Discussion: new information, everyone asks questions, communication
 - Explained Caucus (private meeting) with each side while other side thinks about their suggestions for mutual resolution on a break:
 - Further explore issues/share additional information
 - Confidential opportunity – they can ask mediator to keep something confidential
 - Place in the mediation to develop options for resolution
 - Reconvene & share proposals – may or may not have more caucuses
 - Explained Agreement as mediators facilitating discussion of parties' promise clauses by asking questions: who does what, when, how & the timeframes
 - Asked if any questions on the Mediation Process

- **Previewed & explained Administrative Matters**
 - Clipped paperwork in separate groupings: Consent grouping, Addendum/Bio stapled grouping, Evaluation grouping
 - Distributed Consent to Mediate & invited participants to follow along as read
 - Questions about Consent? Got signatures of all participants including mediators
 - Distributed stapled Addendum/Bio (stapled) & invited participants to review
 - Stated that Neutral(s) had no conflict of interest from their perspective – Agree? Stated that Neutral(s) had prior association, describe the connection and obtain consent. If not, discuss and resolve or withdraw
 - Declared, if applicable, neutral is an attorney & s/he would not practice law – Agree? /NA
 - Questions about Addendum? Got signatures of all participants including mediators
 - Held Assessment/envelope to show participants, DON HR interested in process and mediator then pointed out #9
 - Did not distribute Assessment/envelop at this point
 - Told participants they fill out at end of mediation while neutrals copied all papers signed
 - Asked if any questions on the Administrative Matters

- **Commended participants for choosing mediation (commend used rather than thank you)**

- **Demonstrated Performance and Rapport Building Skills:**
 - Adequate, balanced eye contact with all participants
 - Facial expression demonstrated appropriate interest and concern
 - Open, centered body orientation
 - Appropriate volume, pitch, tone
 - Paid attention to participants' non-verbal behavior
 - Tried to set participants at ease

- **INTRODUCTION/MEDIATOR'S OPENING OVERVIEW COMMENTS:**

- **RATING: (Underline or circle one number) 1 2 3 4 5**

B. Opening Comments by Participants:

- Describe the task (uninterrupted opening overview) and their talk turns (which party presents first, second)
- Controlled any interruptions
- Some notes taken
- Prepared to deliver agenda at conclusion of Party 2's opening comment
- Sustained, balanced eye contact with participants

• **OPENING COMMENTS BY PARTICIPANTS COMMENTS:**

• **RATING: (Underline or circle one number) 1 2 3 4 5**

C. Agenda at chart paper/board (or on paper at table if no board is present)

- Stood immediately stating purpose for going to chart paper/board or used paper effectively at table
- Wrote on paper and spoke to issue with combined, neutral, and impartial summary statement (not individual paraphrases)
- Used positive language in reframing issues (Ex. Promotion was Career Opportunities)
- Concluded agenda discussion with the selection of first topic for discussion

• **AGENDA AND SUMMARY COMMENTS:**

RATING: (Underline or circle one number) 1 2 3 4 5

D. Joint Discussion

- Began by asking easy foundational questions that participants would be comfortable answering
- Used open ended questions – How and What

- Balanced questions between participants
- Maintained eye contact and minimal notes
- Used agenda to effectively facilitate discussion of topics
- Encouraged productive discussion of parties and representatives
- Demonstrated clear understanding of all parties issues
- Identified common ground
- Ensured Subject Matter Expert was used effectively in needed
- Reframed language to be hopeful and helpful while leading to future
- Did not offer outcome advice, merits or provide options – did not generate options at this stage
- Summarized Joint Discussion focusing on the positive progress made by parties

• **JOINT DISCUSSION COMMENTS:**

• **RATING: (Underline or circle one number) 1 2 3 4 5**

E. Caucus (with each participant at least one time)

- Described the task (additional info, confidentiality option, and options for resolution) and their talk turns (first caucus, second caucus)
- Escorted participants/sides from room. Carried notes when away from table.
- Recommended that party not in caucus think of ways to recommend potential resolution options
- Upon returning to seat, explained the Confidential Opportunity for the caucus (will check again before ending caucus)
- Opened discussion with the phrase: “What would you like to share with me now?”
- Explored any new issues raised
- Explored any further discussion raised concerning joint discussion issues
- Helped parties understand their interests
- Facilitated generation of multiple options and linked them to interests
- Focus on the future
- Used reality checks effectively

- Established that participant would present their suggested options upon reconvening
- Summarized the beneficial progress made in the Caucus
- Asked if there is anything the mediator needs to keep confidential

• **CAUCUS COMMENTS:**

• **RATING: (Underline or circle one number) 1 2 3 4 5**

F. Reconvene

- Commended participants for their good work in caucus
- Facilitated sharing of proposals (initiator then responder)
- Facilitated discussion of proposals and further negotiation
- Began framing points of agreement

• **RECONVENE COMMENTS:**

• **RATING: (Underline or circle one number) 1 2 3 4 5**

G. Resolution, Withdrawal and/or Closure

• **If resolved (or withdrawn as appropriate):**

- Effectively facilitated memorialization of points of agreement using who, what, when where and how questions
- Captured both parties interests
- Helped draft an agreement which was sufficiently specific
- Exerted sufficient effort to assist parties in reaching agreement
- Ushered draft agreement through appropriate review process
- Asked for questions about the agreement

- Provided evaluation and envelope to all participants while making copies of signed documents
- Determined plan to deliver signed forms/agreement and evaluations to proper POC

● **If not resolved:**

- Discussed what next steps were for participants (while not advising them on what they should or should not do)
- Invited to return to mediation
- Provided evaluation and envelope to all participants while making copies of signed documents
- Determined plan to deliver signed forms and evaluations to proper POC

● **RESOLUTION/WITHDRAWAL/CLOSURE COMMENTS:**

● **RATING: (Underline or circle one number) 1 2 3 4 5**

H. Professional Qualities

- Did adequate planning and preparation
- Arrived at Mediation in advance , met the on-site POC, set up the room and checked out the caucus room, located equipment, checked on template status
- Maintained impartiality, neutrality and refrained from giving merits, advice or options
- Demonstrated respect for different values and lifestyles

● **PROFESSIONAL QUALITIES COMMENTS:**

● **RATING: (Underline or circle one number) 1 2 3 4 5**

I. Personal Qualities:

- Dressed appropriately with groomed appearance
- Developed rapport and trust as well as demonstrated a positive outlook
- Appeared confident and in control of emotions
- Set a hopeful tone for the mediation

• **PERSONAL COMMENTS:**

• **RATING: (Underline or circle one number) 1 2 3 4 5**

J. Communication Skills and Techniques (Rate the individual element 1, 2, 3, 4 or 5 and give an overall average in the rating section at the end of J)

- Demonstrated appropriate posture, gestures & eye contact - 1 2 3 4 5
- Demonstrated appropriate use of voice, tone, volume and clarity - 1 2 3 4 5
- Demonstrated appropriate verbal content and timing - 1 2 3 4 5
- Demonstrated effective facilitation skills - 1 2 3 4 5
- Demonstrated appropriate listening styles and other intuitive abilities - 1 2 3 4 5
- Demonstrated effective paraphrasing and reframing skills - 1 2 3 4 5
- Demonstrated appropriate use of Subject Matter Experts - 1 2 3 4 5
- Overcame impasse, resistance or difficult behavior if occurred - 1 2 3 4 5
- Dealt with power imbalance or control issues if occurred - 1 2 3 4 5
- Handled intense emotions or difficult agendas - 1 2 3 4 5
- Displayed flexibility and used creative strategies effectively if appropriate - 1 2 3 4 5

• **COMMUNICATION SKILLS AND TECHNIQUES COMMENTS:**

• **RATING: (Underline or circle one number) 1 2 3 4 5**

K. Overall Assessment

- Demonstrated mastery of the mediation process
- Demonstrated awareness of ethical issues
- Engaged in ongoing assessment of appropriateness of case for mediation
- Demonstrated appropriate level of preparation, skill, competence and effectiveness
- Demonstrated ability to work with co-mediator and clients

• **OVERALL ASSESSMENT COMMENTS:**

• **RATING: (Underline or circle one number) 1 2 3 4 5**

SECTION IV: MENTOR'S NOTES FOR MENTEE:

1. What mediation model content areas need to be addressed? Include specific recommendations for improvement:

2. What behaviors need further development or change? Include specific recommendations for improvement.

**SECTION IV: MENTOR'S NOTES FOR WORKPLACE ADR PROGRAM
MANAGER**

1. Have you co-mediated with the mentee before? YES _____ NO _____

2. Do you recommend this mentee moves forward in the certification process?

YES _____ NO _____

Additional comments if applicable:

3. I discussed the mentee's mediation goals with him/her prior to this mediation;

YES _____ NO _____

4. I provided constructive feedback to the mentee following this mediation:

YES _____ NO _____

Signature of Mentor Mediator

Date

*PLEASE PROVIDE THE ORIGINAL TO THE PERSON WHO ARRANGED YOUR
MEDIATION AND A COPY TO THE MENTEE.*

**THANK YOU FOR CONTRIBUTING TO THE DON MEDIATOR
CERTIFICATION PROGRAM.**