

# MENTORING

## ***Tips, Techniques, and Best Practices***

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This paper reflects the experiences shared by many mentor-mediators and those who have been mentees. The points are displayed in the sequence of before, during, and after a mediation session.

This paper assumes mentoring will accompany a *co-mediation* session in which the mentor and mentee co-mediate an *actual dispute*. However, the points are adaptable for use by a separate observer-evaluator or for mock mediations.

### **Before the mediation:**

- 1 Set expectations about meeting before and after the mediation session and how to prepare (e.g., “*let’s meet before the mediation at [ time ] on [ date ],*” and “*I expect you to stay after the session for at least 30 minutes to allow time for debriefing*”). Describe how you plan to use these meetings. Ask the mentee to review evaluation forms, if used in your program, before you meet.
- 2 Discuss what the mentee wants to achieve in the upcoming mediation and any concerns and anxieties they have. Try to focus the mentee on specifics – skills, mediator philosophies, stages, etc. This discussion typically will differ for a first-case mentee and for one who has had several cases.
- 3 Against the background of the mentee’s experience to date, any developmental needs noted by prior mentors, and the discussions above, plan with the mentee for your mutual expectations and your respective roles – e.g., how you two will share or otherwise handle the introduction to mediation, the extent to which you will share “air time” during the mediation, how to deal with breaks, and how to deal with particular skill development needs of the mentee. Revisit and reinforce basic learning points as needed (e.g., for the introduction, the trust-building overlay, different ways of approaching “ground rules”). Remind the mentee about the importance of body language and of the importance of listening for the “message behind the words.” If appropriate, mention dress or context, such as court demeanor.
- 4 Discuss your respective personal styles or models of mediation with the mentee, and any particular practices you favor (or don’t) concerning, e.g., “ground rules” and caucusing. This provides a touchstone for post-mediation debriefing on different approaches to issues that arose during the mediation, particularly where the mentee may have heard about different approaches from trainers or other mentors. Mentees often are trying to make sense of different

perspectives from several sources. Consider the mentee's special needs and attributes – e.g., English language skill, disabilities, pacing, and conflict management styles.

5 Assure that the mentee understands that the parties' needs are paramount and take precedence over the mediation as an educational endeavor for the mentee -- and that if you as mentor feel the need to step in, you will do so.

6 Discuss what you know about the upcoming case, and any particular emotional, process, power, or substantive matters that might arise and ways in which these matters might be approached.

7 If you are joined by an observer rather than a co-mediating mentee, clarify expectations about how the observer will be introduced to the parties, where the observer will sit, and the observer's non-participatory role. Give the observer assignments for later discussion: watching body language, questions about your actions and reactions during the mediation.

8 Share your practices around a suggested "toolbox" – copies of forms, "introduction-to-mediation" outline, tissues, calendar, notepaper and pens, etc. Consider discussing your (and others') practices concerning seating arrangements and use of easels and computer laptops for note-taking or display of information for parties.

9 When mentoring someone with subject expertise (attorney, financial advisor, counselor, etc.) discuss how to separate their use of that expertise and the temptations of their other roles from their role as a mediator. This also presents the opportunity to discuss associated ethical issues.

10 If you anticipate multiple sessions or post-session contacts with parties (e.g., for reviewing documents), clarify with your mentee how to manage the parties' expectations for communications and document flow.

11 "Expect the unexpected." As appropriate, discuss how to respond to problems that occasionally arise, like the need for an interpreter, unexpected parties, etc.

### **During the mediation:**

1 Follow your plan. Send a message of support (and responsibility) to the mentee by doing the things (and letting the mentee do the things) you discussed before the mediation.

2 Consider whether to identify your co-mediator as a mentee. There are two perspectives on this. On the one hand, identification can have the effect of

diminishing your mentee's perceived role so substantially that it becomes virtually useless as a co-mediation learning experience. On the other hand, you may feel that the parties have the right to know about the competency and experience of the persons who are their mediators. This may be a case-by-case determination.

3 Be continuously alert, but give the mentee room to work and make some (harmless) errors. As stated above, your primary responsibility is to the parties, but you should be prepared to tolerate some less-than-artful actions of the mentee. There are few errors from which one cannot recover. Of course, you should note opportunities for improvement for later debriefing. Furthermore, you as a mentor need to strive for self-awareness about what may be your own biases. Mentors may be "turned off" by a mentee's choice of phrase or style, but we should reflect on what needs "correction" *vis-à-vis* what needs tolerance.

4 Although you want to give the mentee room to learn from their own experiences, your modeling of adroit mediation practices is a very effective learning tool as well. For example, you can demonstrate useful phrases used to clarify, an example of your style of reframing, etc., and affirm these later in debriefing.

5 If you must step in, try to do so unobtrusively if possible – *e.g.*, if you believe you really need to redirect a line of discussion from something the mentee just asked, you might say "*just before we get to that, could we first clear up something that I still am a little unclear about . . .*" It is best that the parties not unnecessarily pick up "vibes" that something has gone wrong, as it can negatively affect their trust in the whole mediation -- and you want to avoid appearing to disrespect your co-mediator.

6 Once in a while, things may go so badly that you need to change directions substantially and immediately. Take a break (you do not necessarily have to disclose your real reason for the break to the parties). Then meet with your mentee, debrief specifically around why you took the action, and plan for recovery back at the table.

7 Ordinary breaks during the mediation may present "mini-debriefing" opportunities about prior activity -- just keep in mind that a break may be too short to effectively deal with an issue or may over-emphasize a particular contemporary event. On the other hand, breaks can be used as opportunities to re-visit your mentoring plan and analyze options for proceeding after the break.

8 An important challenge for the mentor is timely note-taking about items to discuss during de-briefing – things that went particularly well, problems that arose and options for handling them, and things that might have been done differently. While you do not want to lose focus or divert attention by voluminous note-taking, it is important to develop your own way of making brief notes sufficient to later remind you and the mentee of the specifics of a learning event.

It may be some time before you can return to an important event that occurred during only a few seconds in mediation. Sometimes, you may need to capture the exact words a mentee used to debrief effectively. Consider practicing the art of brief, marginal note-taking without looking down, and developing your own shorthand!

### **Debriefing and evaluation after the mediation session:**

1 Take a short break after the mediation session and before the debriefing to refresh and refocus. You and the mentee can use this opportunity to organize your thoughts. Mark the transition psychologically by changing something – take your coat off, arrange the seats differently, etc. Reintroduce the purpose of the debriefing, your respective roles, and assure that you are in agreement about the time available. Often, the two of you may need a little time to decompress from the mediation – which may provide an opportunity to segue into specific elements of the debriefing. If the mentee appears at all apprehensive, acknowledge that evaluation is difficult for everyone and that it is a valuable experience for everyone, particularly in the mediation process, where as mediators we need to anticipate and welcome constructive feedback in one form or another throughout our professional lives.

2 A good principle about feedback, as in conflict resolution in general, is to focus on the *behavior*, not the person. You want to make it easy for the mentee to hear you and to heed your input, and it helps to reduce the mentee's personal defensiveness.

3 Generally, start with the mentee's own experiences and thoughts (and your encouraging observations), using open-ended questions and building toward your constructive feedback. Illustrations: *"Jim, how do you think the mediation session went?" "What in particular went well for you?" "I was impressed with how you responded to the question on confidentiality -- how did you feel the parties reacted?"* Frequently, encouragement makes it safe for a mentee to move spontaneously toward their challenges; if not, you might ask: *"was there anything in particular that you felt uncomfortable with?"* Often, the answer will reflect something you may have noted for feedback purposes yourself, and you can use the mentee's own statements as an entry for your critique and developmental discussion.

4 Use "elicitive praise", *i.e.*, praise accompanied by a question or invitation to discussion: *"I really liked it when you asked \_\_\_\_\_ -- what made you think to ask that?" "The parties responded well when you reframed their discussion about the idea of a fresh start in a new job – how do you think that went?"* Try to begin discussions with positive comments and observations. Avoid the "why" question, which can be unduly challenging – instead, try for "what" and "how" questions, and explain the context.

5 Generally, the mentor should prioritize and carefully select learning points (or themes) for feedback – perhaps no more than *three to five* primary subjects of feedback per mediation session. A long and scattered list can dilute the importance of priority items and may not be remembered or learned as well by the mentee. Briefly outline your overall themes at the outset, so the mentee has a sense of context and limits.

6 During feedback, the mentor should identify the action or behavior in question as specifically as possible, linked to context. Make a factual observation about whatever the mentee or a party did. This helps avoid ambiguity and confusion about what happened, and reduces the opportunity for defensiveness on the part of the mentee, so you can proceed more directly to productive discussions. To do this well, you must be able to frame events accurately, which underlines the value of good note-taking.

7 Rather than (or before) questioning an action of the mentee, start by asking the mentee for clarification or perspective on the event. For example, assume a mentee interrupted the parties' exchange at one point, and you want to use this event to discuss when and how to intervene. You might try the following: *"Do you remember when Bob was talking about [x] when we were discussing [y]? You responded just then by asking [z]. I think it would be useful to discuss that interaction. What strategy did you have in mind at that moment?"* Or, if you had had to step in at some point to recover a mediation veering off because of a question or action of the mentee, you might say: *"You probably remember when I stepped in at [x point]. What is your perspective on what was happening there?"* Generally, mentees learn better by being integral to a developmental discussion where they help lead themselves to new perspectives, rather than merely being subjected to "mini-lectures."

8 Demonstrate something you or others might have done differently, and give reasons. *"This is how I might have handled that situation," "I've seen other mediators do this . . . ."*

9 Do not evade your responsibility to tell a truth just because it is difficult. As in mediation generally, it usually is *how* you say something, not *whether*. Mentors have a responsibility to mentees, to the public, and to mediation generally, to assure that difficult topics are dealt with and that mentees who have trouble "getting it" are well-directed toward the best path – whether that means further training, an evaluation that recommends additional practice, or an evaluation that does not recommend certification. In these instances, it is particularly important to identify objective behaviors and context (discussed above). Sometimes, setting up the seriousness of the subject is the psychological key – e.g., *"Bob, I believe we need to debrief carefully around one interchange: the one where Katie said she didn't know what to do about [x] and you stepped in to give her some very specific options. As I believe you know, the*

*aspect of self-determination is key, both legally and as a matter of the core values of mediation as we practice it here. There are ways you can help a person develop or obtain ideas and perspectives on options – we'll talk about that – without giving such specific advice."*

10 Use stories and humor. Adults learn well from *stories* – not lengthy, and not many, but a story or two about mediation events that happened to you or others that illustrate things that went wrong or right. These stories connect you with the mentee on a very human level and give you the opportunity to provide a memorable, even enjoyable lesson linked to a subject in the mentee's just-completed experience. You can soften critiques with humor, particularly at your own expense as part of a story -- e.g., *"I remember a case where I got so interested in a party's tale that I interrupted it, and I got just the kind of reaction you experienced today!"*

11 If a subject is important enough to critique, it is important enough to critique with some depth. It is insufficient to merely say, *"I want you to work on your reframing."* In addition to using the specific contextualizing discussed above, give examples of alternative approaches, touch on underlying theory, ask the mentee to suggest how they might have done it differently, etc. – parsing the issue from several different angles, if you can. You might suggest further reading, revisiting a basic training manual, a list of phrases you and other mediators use to clarify, reframe, and transition, role-playing, etc. This illustrates the value of prioritizing items for feedback to provide the time needed for each.

12 Pose hypothetical alternatives, e.g., *"what might have happened if you had said \_\_\_\_\_," "what are some things you might have done differently?"*

13 Use a reenactment or role-play – of things that occurred, might have occurred, or hypothetical alternatives to play out different scenarios. Role-reversal also may be used – *"if you were one of the parties when that question was asked, how might you have reacted?"*

14 Make "lemonade out of lemons" by stating negatives as their obverse positives – e.g., instead of *"you may be too passive"* say *"there are ways you can be more active."*

15 Avoid absolutes such as "always" and "never." With rare exceptions there are few things in mediation that are not situational. Further, there probably are things you may do or avoid that other competent mediators engage quite differently. Thus, if you wish to state a stylistic choice you prefer, label it as such and try to relate it to a theoretical basis so the mentee can reflect on a range of possible choices.

16 If a mentee appears frustrated or defensive, take time to discuss those feelings, clarify the debriefing process, and adapt the evaluation process to the results of the discussion.

17 Invite the mentee to ask questions about *your* performance. He or she may be afraid to question something “the master” did, but if a question arises, it deserves an answer and may start a discussion or be a valuable learning point for the mentee. If you made a mistake, it can be useful to acknowledge it and make the point that mediation is so complex that no one can do everything perfectly – and that if you mediate a thousand cases, you will learn something new on the thousandth-and-first. You might also suggest that the mentee watch future mentors for how they handle a particular situation differently.

18 End the debriefing on a positive note. While mentors have a “gatekeeper” role in some programs, our basic stock-in-trade is guiding, coaching, and helping neophytes develop in a pursuit of excellence. Look for a closing opportunity to reinforce the mentee’s own sense of value, achievement, and opportunity for growth.

19 Touch on next steps. Help the mentee be clear on their next steps in their development process (including procedural steps, e.g., toward certification if available) and where to go for more information.

20 Although you are the mentor, a mentoring relationship is a mutual learning opportunity. Be willing to learn from your mentee. Sometimes experienced mediators get into habits (good or bad). Working with a new mediator can sometimes bring us “back to the basics” or teach us a new technique.

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