




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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Memorializing the Resolution Agreement

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.
- Each party is assigned to a different dining hall, workout facility, area of library.
- 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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Types of Corrective or Punitive Measures

Types of corrective or punitive measures may include but are not limited to:

- Suspension from extra-curricular activities (athletics, student groups, Greek life, etc.)
- Restriction from campus activities (athletics events, dances, concerts, etc.)
- Enter counseling or other educational programming relating to alleged misconduct.
- Temporary withdrawal from the institution (semester, year, etc.)
- Permanent withdrawal from the institution

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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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A presentation slide with a background of overlapping grey paper-like shapes. On the left, a dark blue square contains the word "CHAT" in white, bold, sans-serif font, with two white speech bubble icons below it. To the right of this square, a white rectangular box contains the text "Failure to Reach Agreement" in bold black font, followed by "Other ideas?" in a smaller, italicized black font. A small number "17" is visible in the bottom right corner of the slide.

CHAT

Failure to Reach Agreement
Other ideas?

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A dark blue presentation slide. In the top right corner, the logo for "ai ACADEMIC IMPRESSIONS" is displayed in white. On the left side, a vertical orange bar is positioned to the left of the large white text "#9". Below "#9", the text "Preparing for the Mock Mediation" is written in white, bold, sans-serif font. A small number "18" is visible in the bottom right corner of the slide.


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Preparing for the Mock Mediation

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ACTIVITY 

- **Fact Pattern**
- **Review of the Fundamentals**

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 **Personality & Communication Strengths Review**

| <u>Personality Strengths</u> | <u>Communication Strengths</u> |
|------------------------------|------------------------------------|
| Tolerant | Characterize but don't criticize |
| Thoughtful | Clarity |
| Practical | Emotional control |
| Collaborative | Simplicity trumps complexity |
| Respectful | Facts are foundation to persuasion |
| Empathetic | Eye contact |
| Intuitive | Relaxed tone |
| Self-Aware | Avoid negative body language |
| Creative | Avoid negative verbal reactions |
| Non-Judgmental | Avoid negative facial expressions |
| Open-Minded | |
| Credible | |

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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...
 - *"Describe what happened after he/she left your room?"*
 - *"Who was with you?"*
 - *"Why did you wait until the next afternoon to call?"*
 - *"Tell me how you felt when you saw him/her earlier?"*

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Questioning Techniques Review (continued)

Closed or leading questions.

- Question suggests the answer
 - *"You called the Title IX Coordinator two days later."*
 - *"So, your roommate called him/her to ask if he/she was ok?"*
- Confines response
- Summarizes

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Questioning Techniques Review – Probing Questions Review

Probing questions.

- Exploring feelings, opinions, thoughts...
 - *"How would you feel if we are unable to reach an agreement?"*
 - *"What is the best result for you today?"*
 - *"If you couldn't achieve the best result what will you need to feel comfortable about an agreement?"*

- A guide to persuasive discussions with the other party.

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Mock Mediation Module I: Setting the Scene & Messaging

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#12

Mock Mediation Debrief and Final Q&A with Faculty

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QUESTIONS?

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This slide has a light gray background with a pattern of faint, overlapping question marks. In the center, there is a dark blue rectangular box containing the word 'QUESTIONS?' in a large, white, bold, sans-serif font. At the bottom center, the logo for 'ai ACADEMIC IMPRESSIONS' is displayed. In the bottom right corner, the number '28' is visible.

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Thank you!

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

Please look in the Chat for the event evaluation link.