

# Effective Strategies for Critiquing and Mentoring Mediators



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**My Florida Mediator**

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# Rules for Certified and Court Appointed Mediators 10.690 (b)



**“An experienced mediator should cooperate in training new mediators, including serving as a mentor.”**

# When a mediator needs help, what's often least helpful?

- War stories
- Criticism
- Lectures
- Advice
- Avoidance



**Give a person a fish, and you feed them for a day. Teach a person to fish, and you feed them for a lifetime.**



# Steps to Improving One's Skills

- 1. Reflective Inquiry**
- 2. Brainstorming**
- 3. Identifying Objective Criteria**
- 4. Analyzing Options**
- 5. Formulation of a New Solution**
- 6. Testing the New Solution**





# SUPREME COURT OF VIRGINIA

## MEDIATOR SELF-REFLECTION INFORMATION

OFFICE OF THE EXECUTIVE SECRETARY  
OF THE SUPREME COURT OF VIRGINIA

MEDIATOR SELF-REFLECTION - REQUEST FOR CME

Name		Certification Number	
Mediation Date(s)		Mediation Length	
Co-mediator Name		Co-mediator Certification Number	

The *Guidelines for the Training and Certification of Court-Referral Mediators* allows mediators to request up to 3 hours of CME credit for up to 3 hours of co-mediation followed by self-reflection.

This "Request for CME" form asks a series of questions to prompt self-reflection about a recent co-mediation. The questions come from the "Questions for Exploration" in the "[Mediator Self-Reflection Treasury](#)." Questions cover: 1) specific things that happened and/or actions taken during the mediation; 2) internal thoughts and self-awareness while mediating; 3) new learning the mediation engendered; and 4) steps for professional development.

**INSTRUCTIONS**

- Following the requirements for each section of the form, select the questions you wish to answer. (For example, in the first section you must answer all the questions. In the second section, select five questions.)
- Record your responses. Identify each question by noting its number beside your response. Add space as needed or attach additional sheets. To qualify for CME credit, responses must show thoughtful and thorough reflection on the mediation and your actions as mediator. Simple responses likely will not qualify; although quality is always more important than quantity. Remember to write your responses in a way we can read and follow your thoughts. Stream-of-consciousness responses are probably not adequate. Edit for cohesiveness and readability.
- Consider consulting the Mediator Self-Reflection Treasury. Its vocabulary could prove useful in crafting your responses. Its lists of mediation principles and mediator skills, etc., might prove useful. The Treasury could help facilitate examination, for example, of why certain strategies were employed in the co-mediation and how effective those strategies were.

Submit this form (ADR-1011) to the Division of Dispute Resolution Services (DRS) at [drsapplications@vacourts.gov](mailto:drsapplications@vacourts.gov) soon after the co-mediation. Attach objective evidence of co-mediation length and completion. Objective proof are items like client evaluations, invoices, letters from program coordinators, and reports from case tracking systems. Processing may take up to 2 months. DRS will reply by email whether CME is awarded. (NOTE: If you would need to obtain other CME credit for recertification should your responses not qualify, DRS recommends submitting requests well in advance of your certification expiration date.)



# SUPREME COURT OF VIRGINIA MEDIATOR SELF-REFLECTION INFORMATION

- **MEDIATORS EARN CME FOR COMPLETING A CME FORM\***
- **MEDIATORS ARE INVITED TO SELF REFLECT ON A MEDIATION.**
- **QUESTIONS ADDRESS THE FOLLOWING:**

- I. VISUALIZE THE MEDIATION**
- II. WHAT STANDS OUT?**
- III. WHAT WAS MY SELF-AWARENESS?**
- IV. LEARNING**
- V. PROFESSIONAL DEVELOPMENT**

\*<http://www.courts.state.va.us/courtadmin/aoc/djs/programs/drs/mediation/forms/adr1011.pdf>  
See also **MEDIATOR SELF REFLECTION TREASURY**, a workbook and guide to encourage mediator self-reflection  
<http://www.vacourts.gov/courtadmin/aoc/djs/programs/drs/mediation/resources/treasury.pdf>

# I. VISUALIZE THE MEDIATION (Answer All Questions)



- 1. What were the general issues?**
- 2. Was there anything about this mediation that made it difficult?**
- 3. What do I think the participants were trying to achieve in this mediation?**
- 4. What, if anything, was surprising about this session?**
- 5. What was especially satisfying about this session?**







## II. WHAT STANDS OUT?

(Answer 5 of 16 Questions)



- 1. What was a key juncture in this mediation? How did I respond? How did the participants respond to me?**
- 4. Did I help the participants understand each other? What did I do to assist them?**
- 5. If I was creative and/or tried something that I hadn't tried before, what was it? What was I trying to accomplish? What happened?**
- 8. How did I use an agenda or determine and structure discussion topics to guide to discussion/negotiations?**
- 11. What strategies did I use to facilitate the conversation around possible solutions and/or move the parties out of impasse?**



### III. WHAT WAS MY SELF-AWARENESS?

(Answer 3 of 12 questions)



- 1. During the key juncture(s) in the mediation, how did I feel? What was I thinking?**
- 3. Was I attentive? When and why did my mind wander?**
- 4. Did I mindfully select my actions, or did I act out of habit?**
- 8. How did my actions fit with my beliefs about the role of a mediator and the goals of mediation – were they consistent with those beliefs?**
- 12. Did I step outside the mediator role into another professional role? If so, what were my thoughts/intentions?**



## IV. LEARNING

(Answer 2 of 10 questions)



- 1. What were my strengths in this mediation (e.g., introducing the process, listening, paraphrasing, identifying/clarifying issues, assisting parties generate their own solutions, remaining neutral and facilitative, assisting parties write an agreement, etc.)? My weaknesses? What makes me think these were strengths/weaknesses? Would my co-mediator agree with this assessment?**
- 2. Did the parties get what they needed from me? If so, what did I do to ensure this? If not, what could I have done differently? Would my co-mediator agree with this assessment?**
- 4. Did ethical issues arise? If so, how did I handle it? Why did I choose to handle it in that way? Would I do anything differently next time? Why or why not?**
- 7. Did I forget to use a theory or knowledge/information that might have been helpful? How would it have assisted the parties? What might have changed if I had remembered to use it? How can I remember this in the future?**
- 8. Did all my actions stem from the principles of mediation? Would I do anything differently next time? What might have changed if I had acted differently? How can I remember this in the future?**



# V. PROFESSIONAL DEVELOPMENT

(Answer 2 of 9 questions)



- 1. What is my sense of my progress and overall skills as a mediator? What makes me think that?**
- 2. What skill and knowledge areas can I improve? How?**
- 3. Are there additional skills I want to develop? Additional knowledge? How can they be acquired?**
- 5. What awareness or attitude do I want to develop? Why is this important to develop? How will I do that?**
- 6. Can I improve my understanding of mediation principles? What specific principles? Why is this important? How will I improve my understanding?**

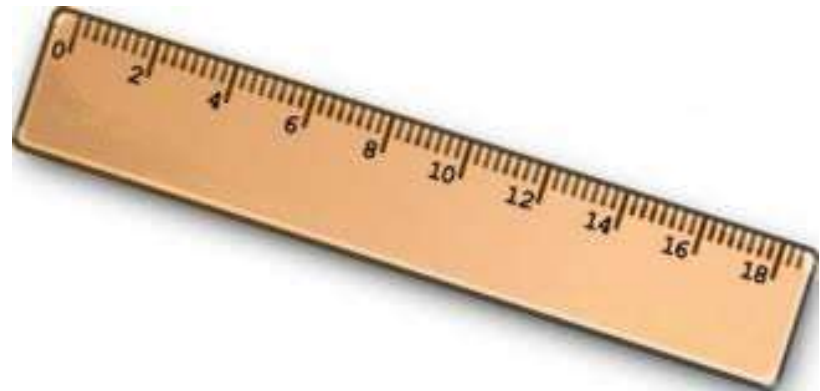
# After Identifying a Problem, Begin Brainstorming & Generating Options



- **Invite the mediator to explore other possible ways to handle a situation through brainstorming.**
- **Brainstorming is a creative process that encourages the mediator to generate different options for dealing with a difficult issue.**
- **All offered ideas should be received positively and not criticized. The more options the better.**
- **Before exploring whether the first idea is a good one, encourage a greater exploration of options. The mentor's role is to help the mediator think creatively outside the box.**

# Identifying Objective Criteria to Evaluate Options Including

- **Key Mediation Principles**
- **Rules for Certified and Court Appointed Mediators**
- **Court procedural rules**
- **Florida Statute Chapter 44**
- **MEAC Opinions**
- **ADA?**
- **Civil Rights Issues?**



# MEAC Opinion 2019-002



- **Question Involves Pro Se Party Agreeing to Unusually High Interest Rate of 22% in County Court Case**
- **Question states that interest in the matter over 18% is considered usury.**
- **Question states: “...likely the plaintiff required that stipulation be included in the agreement, and the defendant agreed to the sum.”**
- **Typically such county cases, the plaintiff is represented by an attorney and defendant is not represented by an attorney.**
- **If a mediator were struggling with this scenario, how might a mentor help the mediator think this through?**

**MEAC Opinion 2019-002 Re Question Concerning Pro Se Party  
Unknowingly Agrees to Unusually High Interest Rate - Usury**

	<b>Preserve Party Self - Determination</b>	<b>Maintain Mediator Neutrality</b>	<b>Maintain Mediator Impartiality</b>	<b>Informed &amp; Voluntary Decisions</b>	<b>Pro se Advice RTA</b>	<b>Any Other Criteria?</b>
<b>Tell the Debtor not to Agree</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Give Debtor Legal Advice</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>5</b>	<b>0</b>	
<b>Tell Lender it's Illegal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	
<b>Provide FL Statute to Parties</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>0</b>	
<b>Advise Debtor of Right to Attorney</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	
<b>Withdraw</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>N/A</b>	

Ratings on a Scale of 0 - 10



# Testing the Hypothesis



- **In Mediator Certification Training Roleplays, Encourage the Mediator Test the Hypothesis in Roleplay with the Group**
- **If Conducting a Supervised Mediation, Consider a Quicker Version of this Process if Questioned by the Mediator between caucus sessions.**
- **Consider Group Mentorship where such Activities can be Tested.**
- **If One to One, the Mentor Can Play the Role of a Party and Let the Mediator Practice New Option See If/How it Works.**
- **Learning that Ends in Criticism Feels Like Failure.**
- **Learning that Ends in Success Reinforces Mediator Mastery**

# Mentoring Roleplay Practice



# Mentoring Roleplay Practice



**1: WC**

**2: V v. VC**

**3: Brooks v. ADR2**

**4: OR v JR**

# How can we best help?



- **Help the mediator learn how to solve their own problems.**
- **Encourage the mediator to be more reflective and able to help them how to better figure out what to do.**
- **Be positive. Find something to honor in your feedback.**
- **Be inquisitive.**
- **Encourage brainstorming.**
- **Help them learn ways to identify, evaluate and test constructive solutions.**

# CONTACT INFO



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