

Mediator Practice Survey 10-6-2015 Beta

1. If you had to pick one predominant approach, which one would it be?
 - a. Evaluative
 - b. Facilitative
 - c. Hybrid
 - d. Transformative
 - e. Other: _____

2. How often do you draw from approaches other than your predominant approach?
 - a. Never
 - b. Rarely
 - c. Occasionally
 - d. Frequently
 - e. Always

3. Compared to when you started mediating, how often are you using techniques from other approaches?
 - a. Don't use
 - b. Less frequently
 - c. About the same
 - d. More frequently
 - e. Changed approach

4. In which category do you conduct most of your mediator work:
 - a. Commercial
 - b. Community
 - c. Courts
 - d. Education
 - e. Family
 - f. Government
 - g. Public Policy
 - h. Tort
 - i. Workplace
 - j. Other: _____

5. How many years have you been an ADR Practitioner (round up)?
 - a. 0-2
 - b. 3-5
 - c. 6-10
 - d. 11-20
 - e. Over 20

6. Which of the following option best approximates your practice as a mediator:
 - a. 100% volunteer
 - b. 75% volunteer and 25% paid
 - c. 50% volunteer and 50% paid
 - d. 75% paid and 25% volunteer
 - e. 100% paid

7. As a mediator, my main role usually is:
 - a. Only to keep the discussion between the parties moving forward productively.
 - b. Mainly to keep the discussion between the parties moving forward productively.
 - c. Equally to keep parties focused on moving the discussion forward and the outcome.
 - d. Mainly to keep the parties focused on the likely outcome if the case does not settle.
 - e. Only to keep the parties focused on the likely outcome if the case does not settle.

8. How often do you typically explain all the other approaches to the participants before having substantive mediation communications?
 - a. Never
 - b. Rarely
 - c. Occasionally
 - d. Frequently
 - e. Always

9. How often are you presented with a case in which your predominant approach is not compatible with the requested approach of the parties?
 - a. Never
 - b. Rarely
 - c. Occasionally
 - d. Frequently
 - e. Always

10. What do you do most frequently when you are confronted with the above scenario?
 - a. I refer it to another mediator whose approach better fits the dispute.
 - b. I usually mediate such disputes.
 - c. I always mediate such disputes.
 - d. I co-mediate.

11. What do most participants expect of the typical mediator?
 - a. Process expertise
 - b. Process expertise and subject matter familiarity
 - c. Subject matter expertise
 - d. Subject matter expertise and process familiarity
 - e. Both process expertise and subject matter expertise

12. Which of the following statements most accurately reflects your view:
 - a. Mediators should use their predominant approach.
 - b. Mediators should use their predominant approach with the informed consent of the parties.
 - c. Mediators should select the approach based on the situation.
 - d. Mediators should select the approach based on the situation and the informed consent the parties.

13. How often do you adapt your predominant approach during a mediation?
 - a. Never
 - b. Rarely
 - c. Occasionally
 - d. Frequently
 - e. Always

14. When lawyers are present at a mediation, with whom do you typically communicate?
 - a. Attorneys are never present
 - b. Almost exclusively with the parties
 - c. Mostly with the parties
 - d. Equally
 - e. Mostly with the attorneys
 - f. Almost exclusively with the attorneys

15. What is the guiding focus in your mediations?
 - a. Only legal rights and responsibilities
 - b. Primarily legal rights and responsibilities and to a lesser extent underlying interests
 - c. Equally legal rights and responsibilities and underlying interests
 - d. Primarily underlying interests and to a lesser extent legal rights and responsibilities
 - e. Only underlying interests

16. How often do you use caucusing in your mediation practice?
- Never
 - Rarely
 - Occasionally
 - Frequently
 - Always
17. How often do you manage information flow in order to reduce the potentially harmful effects of biasing information, incorrect information, confusing information, and too much information, etc.?
- Never
 - Rarely
 - Occasionally
 - Frequently
 - Always
18. From most comfortable to least comfortable rank your comfort managing:
- Emotional Issues
 - Factual Issues
 - Legal Issues
 - Process Issues
 - Relational Issues
19. Which do you think is more important: paying attention to subjective standards (such as what the parties believe to be "fair" or "right") or paying attention to objective standards (e.g. what percentage of cases like this one are won if they go to court, or the range of awards for similar cases is between X and Y).
- Subjective standards are much more important than objective standards
 - Subjective standards are somewhat more important than objective standards
 - Subjective standards and objective standards are equally important
 - Objective standards are somewhat more important than subjective standards
 - Objective standards are much more important than subjective standards

20. Which of the following statements do you most agree with?

Assisting the parties to:

- a. Resolve the dispute is the only focus.
- b. Resolve the dispute should be the main focus, but assisting the parties to achieve mutual understanding and empathy is also important.
- c. Resolve the dispute and assisting the parties to achieve mutual understanding and empathy are both important.
- d. Achieve mutual understanding and empathy should be the main focus, but assisting the parties to resolve the dispute is also important.
- e. Achieve mutual understanding and empathy is the only focus.

21. What do you do when a party doesn't raise a claim or a defense relevant to the matter?

- a. Never raise it
- b. Rarely raise it
- c. Occasionally raise it
- d. Frequently raise it
- e. Always raise it

22. What do you do when the parties are mistaken in their understanding of a fact or a law that is relevant to the matter?

- a. Do nothing
- b. Ask a question that might cause the parties to rethink their mistake
- c. Suggest that the parties research it
- d. Explicitly point out the mistake and urge the parties to research it
- e. Explicitly point out the mistake and provide the correct information

23. Which of the following do you believe a competent mediator needs?

- a. Process expertise
- b. Process expertise and subject matter familiarity
- c. Subject matter expertise
- d. Subject matter expertise and process familiarity
- e. Both process expertise and subject matter expertise

24. How often do you express opinions about the likely outcome if the matter doesn't settle?

- a. Never
- b. Rarely
- c. Occasionally
- d. Frequently
- e. Always

25. What do you do when the party with the least power is about to accept a settlement that is not as good as the result they would likely get if they didn't settle?
- Do nothing
 - Ask a question that might cause the party to rethink their decision
 - Suggest the party get legal, psychological, etc. advice
 - Strongly suggest the party get legal, psychological, etc. advice
 - Advise the party not to take the deal
 - Withdraw
26. Which of the following statements do you most agree with?
- Mediators should set time limits to encourage parties to move on or meet deadlines.
 - Mediators should allow the parties to spend as much time as they want on a given issue.
 - In between, but closer to a.
 - In between, but closer to b.
27. Which of the following statements do you most agree with?
- Mediators should direct the discussions, dropping issues which are not amenable to negotiation and focusing on areas "ripe" for resolution.
 - Mediators should allow parties to take discussions where they want them to go; encouraging discussion of all issues that are of importance to the parties, regardless of whether or not they are easily negotiable.
 - In between, but closer to a.
 - In between, but closer to b.
28. Which of the following statements do you most agree with?
- Mediators should encourage an examination of the past as a way of encouraging recognition of the other.
 - Mediators should discourage discussion of the past, as it tends to lead to blaming behaviors, focus instead is on the present and future--how to solve the current problem.
 - In between, but closer to a.
 - In between, but closer to b.
29. Which of the following statements do you most agree with?
- Mediators should explain mediation, but let parties set goals, direct process, design ground rules. Make it clear settlement is only one of a variety of possible outcomes.
 - Mediators should explain the goal is settlement, design process to achieve settlement, sets ground rules.
 - In between, but closer to a.
 - In between, but closer to b.

30. Are you aware of any institutions that require the evaluative approach to be used in mediations?
- a. No
 - b. Yes
- If Yes, please list the organization: _____
31. Are you aware of any institutions that require the facilitative approach to be used in mediations?
- a. No
 - b. Yes
- If Yes, please list the organization: _____
32. Are you aware of any institutions that require the transformative approach to be used in mediations?
- a. No
 - b. Yes
- If Yes, please list the organization: _____
33. How frequently are lawyers present at the mediations you conduct?
- a. 0-9%
 - b. 10-25%
 - c. 26-50%
 - d. 51-76%
 - e. 76-100%
34. Which of the following statements do you agree with most?
- a. "Mediators are captured, intoxicated by – and ultimately addicted to – the drug of the problem-solving culture."
 - b. "Most parties come to a mediator because they want the mediator to help them solve the problem. The parties want problem solvers."
 - c. In between, but closer to a.
 - d. In between, but closer to b.
35. Which of the following statements do you agree with most?
- a. "Unless ordered into mediation by courts or other agencies, people lack interest in mediation."
 - b. "People are interested in mediation but many lack an understanding of what it is."
 - c. In between, but closer to a.
 - d. In between, but closer to b.

36. Which of the following statements do you agree with most?
- “Our true and unique mission as mediators is offering a “safe haven” from the culture of experts.”
 - “Our true and unique mission is to ensure the Self-Determination of the parties in allowing them to choose the mediation approach that best works for them.”
 - In between, but closer to a.
 - In between, but closer to b.
37. Which of the following statements do you agree with most?
- “Mediators should educate participants about the continuum of mediation approaches and secure the Informed Consent of the parties before proceeding.”
 - “Our fellow human beings who, when in difficult straits, need only modest assistance from us to find their own strength, their own solutions, and their own compassion for each other.”
 - In between, but closer to a.
 - In between, but closer to b.
38. Which of the following statements do you agree with most?
- “Mediators should not set ground rules for the clients.”
 - “Mediators should set ground rules for the clients.”
 - In between, but closer to a.
 - In between, but closer to b.
39. Which of the following statements do you agree with most?
- “Mediators should not reframe the arguments of the parties because the mediator changing the focus can only contribute to the parties’ sense of loss of control.”
 - “Reframing can be a valuable tool that helps give the parties a fresh perspective of the dispute.”
 - In between, but closer to a.
 - In between, but closer to b.
40. Which of the following statements do you agree with most?
- “The mediator should be flexible in his or her approach and willing to adapt his or her approach to fit the desires and expectations of the parties, in order to ensure Self-Determination.”
 - “The mediator should never play the expert or use any directive techniques while mediating even if that is what the parties’ request.”
 - In between, but closer to a.
 - In between, but closer to b.

41. With regard to mediator ethical standards, which option do you prefer?
- a. No model standards
 - b. No enforcement of model ethical standards
 - c. Voluntary model ethical standards with violations treated as educational opportunities
 - d. Mandatory ethical standards with a formal enforcement process and penalties
42. With regard to mediator competency, which option do you most prefer?
- a. No certification or licensing requirements
 - b. Require certification of completion of training (seat time)
 - c. Require certification of proficiency
 - d. Require licensing for paid mediators
 - e. Require licensing for all mediators