

How do you know if you have a strong special education mediation program?

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A high-quality special education mediation program is likely to have a single person who is designated to worry about the quality of the program. Support from the central office is constant. The state staff is familiar with the uses of mediation and they promote it at every opportunity. Hearing officers and complaint specialists routinely inform clients about the option of mediation.

There an ongoing effort to inform the public about the process, and you have found a way to redact and bring success stories to your public information effort.

Some questions that directors of mediation programs should ask are:

Have you developed good relationships with outside agencies, i.e. hospitals, social service agencies, parent training centers, protection and advocacy organizations, professional education organizations, law school clinics, LEA administrators and IEP team leaders, independent evaluators, school and parent attorneys, advocates?

What channels have you established for formal and informal feedback from administrators and parents?

Are mediators routinely observed, coached and evaluated? How do you determine if your mediators are effective? If they are doing what they were trained to do, don't you think that there is something wrong? Most mediators are trained to conduct a fairly linear process through a format of role plays and coaching. They will continue to operate in the narrow channel of their training if there are not opportunities for further development.

Thinking like a mediator involves constantly asking the question: "What do they need from me right now?" The answer is likely different than it was five minutes ago and the decision to respond with silence or a verbal prompt or question is a constant choice. The difference between an adequate mediator and an excellent one is the degree to which they are aware of these choices. Excellent mediators are always finding ways to convert statements they are tempted to make into questions. One can think of mediation as a thought experiment, in which the mediator's role has much to do with encouraging participants to think in ways they have not before. Hence the strength of questions versus statements. The mediator should not be working harder than the participants, but find prompts which encourage their best thinking.

How can you improve mediator performance? Observing and debriefing takes time and resources, but will improve the quality and utility of your service. It is an opportunity for growth which your mediators will value. If you are in a position where you can only debrief mediations by phone, then the discussion of what worked, what did not, where the turning points were, will still be valuable. The debriefing also serves the purpose of

relieving the emotional charge built up by the mediator's experience. As constituents see that you attend to quality in this way, it contributes to the credibility of your program.

*What are some hallmarks of mediator quality?*

Highly effective mediators conduct a client-centered process.

Adequate mediators conduct a mediator-centered process.

Highly effective mediators try to figure out what the parties uniquely need in this situation and try to elicit it or become it.

Adequate mediators do something close to what they were trained to do every time.

Highly effective mediators learn from their mistakes.

Adequate mediators may not recognize their mistakes.

Highly effective mediators are prepared to adapt to parties' needs.

Adequate mediators are overly influenced by one school of thinking, i.e. transformative, evaluative, facilitative.

Highly effective mediators can use themselves authentically and vitally as needed.

Adequate mediators resort to a subtle use of authority.

Highly effective mediators have a heightened awareness of their choice of interventions and the ever-present choice of whether to intervene or not. They are also aware of the impact of their interventions, the flow of the discourse and the shifts in understanding which occur.

Adequate mediators have a sense of progress toward agreement or slippage. Most of their interventions are reflexive rather than reflective.

Highly effective mediators have the ability to constantly read the whole room unobtrusively. They listen for what is unsaid and can detect subtle shifts.

Adequate mediators get the most obvious verbal messages.

Highly effective mediators have strongly developed cognitive skills of analysis, synthesis and intuition.

Adequate mediators tend to conduct a similar process every time.

Highly effective mediators read extensively the ever-expanding bookshelf on dispute resolution, mediation and negotiation. They attend statewide and national conferences.

Adequate mediators think that they already know what they need to know.

Highly effective mediators are vitally interested in the development of their craft and constantly seek constructive criticism.

Adequate mediators await the next assignment.

Highly effective mediators deftly identify and unpack emotional issues, giving them due respect and weight.

Adequate mediators give either inadequate or too much attention to emotional issues. When not enough attention is paid, people do not feel validated and valued. When the emotive content is allowed to eclipse *other* substantive issues, important considerations go unaddressed.

Highly effective mediators have developed “laser listening” and are aware of what is said and what is not said.

Adequate mediators listen better than the average husband.

Highly effective mediators have developed their tolerance for conflict and uncertainty.

Adequate mediators will instinctively deflect high conflict and will seek closure prematurely.

Highly effective mediators summarize for themes and use summary as an opportunity for reframing.

Adequate mediators deliver accurate literal summaries, but fail to move the parties.

Highly effective mediators humbly put people at ease and draw out the best in them.

Adequate mediators put too much energy into demonstrating who’s in charge of the process.

Highly effective mediators promote and are aware of micro-transactions in the assisted negotiations process.

Adequate mediators provide some structure and direction.

Highly effective mediators try to establish groundwork and understandings which will inform the negotiation process.

Adequate mediators rush into bargaining without spending enough time establishing values, common ground, shifts in the parties' stance toward each other and a rationale behind any claim or offer. This is where meaning is made and change happens.

I draw this somewhat Manichean set of contrasts to encourage thinking about the growing edge of an individual mediator's practice and understanding of his craft. To do this work well requires the integration of so many skills: leadership among strangers, highly developed interpersonal skills, instincts, listening ability, effective and authentic use of self, ability to comprehend complex and contradictory material quickly. Important is the facility to find words and metaphors which capture the issues in a way that elicits new thought and a deeper grasp of them. There is call for the cognitive skills of integration and synthesis.

Guiding people with sensitivity through a process whose experience with conflict and with a difficult set of experiences has cost them much emotionally is a particular requirement for success in this work. There is an intangible at work here which has to do with the authentic ability to inspire confidence and suspension of disbelief.

There is so much room for further growth by anyone in these rich fields. My question to you is how are we providing opportunities?

I used to think that the difference between adequate and great mediators had to do with the skills and instincts they brought to the table. I now recognize that the greater difference lies in emotional maturity, emotional intelligence and the regard in which mediators hold others, a spiritual attribute.