

# RSI/ABA MODEL MEDIATION SURVEYS

## MODEL PARTY SURVEY

### INTRODUCTION

Post-mediation surveys are the only practical, low-cost way to gauge how well a mediation program serves participants. They provide essential information for assessing the quality of your program.

Here's what follows:

- [Background information on the survey](#)
- [Advice on using the survey](#)
- [The survey with commentary, including core and optional questions](#)
- [A survey without commentary, including core and optional questions](#)

### INFORMATION THIS SURVEY PROVIDES

Surveys give you the opportunity to assess your program in four areas: 1) the parties' experience of procedural justice, 2) the parties' satisfaction with the process, 3) the achievement of particular goals for the mediation process, 4) the mediators' performance on particular standards and 5) the parties' perspective on particular characteristics of the case and the mediation. Below is an explanation of how this is done.

#### PROCEDURAL JUSTICE:

Procedural justice – a sense that the dispute resolution process is fair – is one of the most important concepts in the provision of justice. Disputants going through any legal process, including mediation, are more likely to perceive both the process and outcome to be fair if they feel that they are heard and treated with respect. Feeling heard means that they have had a chance to tell their story – or to be present as their story is told by their attorney – and they have a sense that their perspective and what is important to them has been understood.

#### SATISFACTION

Satisfaction with the process and outcome are broad measures that provide an overall sense of how participants feel about their experience in mediation.

#### MEDIATOR PERFORMANCE

You should be tracking mediator performance in two areas: ethical practice and competence.

##### **Ethical Practice**

Mediators are expected to be unbiased and to protect a party's self-determination by not being coercive. This survey asks the parties to assess whether the mediators have fulfilled these expectations.

## **Competence**

Parties can provide feedback on particular mediator skills, such as understanding the parties' needs and interests, helping them to come up with options for settlement and actively assisting the parties to reach settlement. You should use the [attorney survey](#) to help assess other, more targeted skills, such as impasse breaking or preparation of the parties.

## **GOAL ACHIEVEMENT**

No doubt you have particular goals for your program. Surveys can help you assess whether the program is achieving those goals. This survey includes questions related to a number of common goals of mediation programs, including whether the parties gained a better understanding of each other's perspectives and whether their relationship or communication was enhanced.

## **CASE AND MEDIATION CHARACTERISTICS**

### **The characteristics of the case at the time of the mediation**

Was enough discovery completed? Were the legal issues complex? Was there major disagreement about liability or about damages? The responses to these questions can lead to a better understanding of what characteristics exist in the cases being mediated, which can help in determining whether the program should be tailored to address particular issues.

### **The characteristics of the parties at the time of the mediation**

Did someone from each side have settlement authority? Was there a large power imbalance? Were the parties hostile to one another? The responses to these questions can be used to determine whether the program needs to address any issues. For example, if someone with settlement authority does not attend in a large number of mediations, the program may want to take steps to ensure that this is not an issue in the future.

### **The demographics of the parties**

This provides more information about who is using your program. Demographics are helpful in demonstrating usefulness to disadvantaged populations and, for evaluation purposes, to see if there are differences in outcomes based on demographic information.

## **TIPS ON USING THE SURVEY**

### **ADAPTING THE FORM FOR YOUR PROGRAM**

The Committee carefully crafted wording and the response options for each question, then tested them in the field. For this reason, we recommend that you use the questions as written as much as possible. See the [instructions for developing participant surveys](#) if you would like to make some modifications to the forms.

### **WHEN TO HAVE PARTIES COMPLETE THE SURVEY**

There are a few options for having parties complete surveys. They each have their pros and cons.

### **Right after mediation session, online**

In this model, the mediator or a staff member asks the parties to complete the form online before leaving the mediation. This requires access to computers.

- **Pros:** The application automatically records all responses and provides simple statistical analysis. This model also has a high response rate, since the participants complete the form right at the end of mediation. It may be low cost, depending on the online survey application used to administer the survey and the availability of computers.
- **Cons:** It requires access to more than one computer so that the participants can complete the survey at the same time. Parties can be tired and rushed at the end of mediation and, therefore may not want to complete the survey, or may not think about their responses. They may also tend toward a positive bias in their responses because they are completing the form in the mediation space.
- **How to administer:** To prepare the parties to complete the survey, have the mediators tell the participants before the mediation session starts that they will be asked to complete an evaluation survey at the end of mediation. In order to minimize the possibility of bias, it's best if the participants complete the survey when the mediator is not in the room. However, the parties should not be left alone. You should either have the mediator ask the sides to move to separate rooms or have a staff member come into the room to administer the survey.

### **Right after the mediation session, on paper**

In this model, the mediator asks the participants to complete the survey before leaving the mediation, and then hands out the survey forms.

- **Pros:** Along with the first option, this has the highest response rate, since the participants are handed the form while still at the mediation site. If Optical Mark Recognition (OMR) software is used to read the survey responses into a database, the software will automatically record all responses and provide statistical analysis.
- **Cons:** Since the parties are handed the form by the mediator and they are evaluating that same mediator, they may be inclined to answer more positively. Parties can be tired and rushed at the end of mediation and, therefore, not want to complete the survey, or will not think about their responses. You will either need to have someone enter the responses into a database or have to buy OMR software.
- **How to administer:** To prepare the parties to complete the survey, have the mediators tell the participants before the mediation session starts that they will be asked to complete an evaluation survey at the end of mediation. At the end of mediation, have the mediator distribute the surveys. The mediators should step out of the room while the parties are completing the survey. To ensure that parties are not left in the room alone together (which has possible repercussions on party safety), have the sides go to different rooms to fill out the survey. Another option is to have a staff member come into the room to administer the survey.
- **Return of completed forms:** A number of options may enhance the sense that the responses are confidential, thus increasing the likelihood that parties will respond honestly. These include: 1) handing each party an envelope to put the survey into and seal; 2) leaving an envelope in the middle

of the table for the parties to put their surveys into and having the last one seal the envelope; 3) putting a box in a convenient place for the parties to put their surveys into as they leave.

### **After the participants have left the mediation, online**

In this model, program staff emails a request to the parties to complete a survey online.

- **Pros:** Research has shown that those responding to a post-service survey are more likely to be honest in their answers when they are not in the presence of the service provider. Also, parties are able to complete the form when they aren't pressed for time. The online survey application automatically records responses and provides simple statistical analysis.
- **Cons:** Lower response rate. If the parties aren't given the survey to complete at the time of the mediation, they are less likely to complete it.
- **How to administer:** To prepare the parties to complete the survey, have the mediators tell the participants at the end of the mediation session that they will be receiving an email asking them to complete an evaluation survey.
- **Survey completion:** Send the email request within a day of the mediation. If a party doesn't complete the survey, email another request a week later. Send a final request a week after that.

### **After the participants have left the mediation, by mail**

In this model, the mediator hands the participants the survey and asks them to complete the form and mail it back.

- **Pros:** Parties are more likely to be honest in their answers because they are separated from the mediator. Parties are able to complete the form when they aren't pressed for time.
- **Cons:** This method has the lowest response rate because it requires the most effort by the parties. Also, it is not cost efficient.
- **How to administer:** To prepare the parties to complete the survey, have the mediators tell the participants at the end of the mediation session that they will be receiving an evaluation survey at the end of the mediation, and ask them to mail it back.
- **Survey completion:** To increase response rate, provide a self-addressed, stamped envelope with the survey, but the response rate will still be lower than the other survey administration methods.

## MODEL PARTY SURVEY (with commentary)

### CORE QUESTIONS FOR ALL PROGRAMS

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Always start by letting the people responding to the survey know why they are being asked to do so and what will be done with their responses. The more work someone has to do in order to complete a survey, the greater incentive you have to give them to do so. Parties want to know that their effort will be useful, particularly for them. Therefore, if the survey is to be completed at some point after the parties leave mediation, you may want a stronger introduction as greater encouragement to respond, such as: “Your response is very important to us. It provides us with the only information we have to help us improve participant experience with the process and program and to evaluate the mediator.”

<b>Case Name:</b>	<b>Case Number:</b>
<b>Mediator Name:</b>	<b>Referring Judge:</b>
The above information is included in order to match up party surveys with other surveys and the mediator report, if you have access to it.	
Collecting the mediator’s name helps you to monitor the quality of the mediators by enabling you to track party responses for individual mediators across all cases in which they are involved. If you are using a case management system for your program, you may not need the mediator’s name or referring judge’s name because they will already be associated with that case number.	

Note the little numbers next to the check boxes in the questions below. While these aren’t necessary, they are included for ease of data entry and analysis. If each response is given a number, that number can be used for the response option, making it easier to enter if doing so by hand, and it can be easier to analyze with numbered responses rather than text.

<b>1. What is your role in the case?</b>
<input type="checkbox"/> <sub>1</sub> Plaintiff (person filing lawsuit) <input type="checkbox"/> <sub>2</sub> Defendant (person being sued) <input type="checkbox"/> <sub>3</sub> Other _____
This question allows you to see if there are trends in the responses of plaintiffs and defendants. Note also that clarifying language is used for those parties who might not understand what “plaintiff” and “defendant” mean.

**2. Was your lawyer with you at the mediation?**

- <sub>1</sub> Yes, my lawyer was with me
- <sub>2</sub> No, my lawyer was not with me
- <sub>3</sub> I don't have a lawyer for this case

This question allows you to better understand characteristics of cases going to mediation – are parties who go to mediation represented? How often is only one party represented? It also helps you to see if there are trends in responses based on whether the party is represented or not.

Note that there are three options, which allow you to assess differences between those who never had an attorney and those who have consulted an attorney but did not have representation at the mediation. The three also cover all the possibilities so that the parties can easily answer the question. (I.e., they would find it difficult to answer the question if they didn't have a lawyer and there was no third option.)

**3. Were you able to talk about the issues and concerns that were most important to you?**

- <sub>1</sub> We were able to talk about none of the issues and concerns that were most important to me.
- <sub>2</sub> We were able to talk about some of the issues and concerns that were most important to me.
- <sub>3</sub> We were able to talk about most of the issues and concerns that were most important to me.
- <sub>4</sub> We were able to talk about all of the issues and concerns that were most important to me.

This question replaces the commonly used, “I was able to talk about my side of the story” or “I had the chance to give my point of view.” Those questions are too broad to properly interpret the responses. The phrasing here narrows the focus of the question to what is most important about procedural justice: feeling heard. Parties feel heard when they can talk about what is most important to them.

The full sentence is repeated for each option in order for the response options to make sense in light of the question's wording, making it more likely that respondents will answer appropriately. It also avoids there being one “no” response and 3 “yes” responses. That is, it avoids the response set: “No;” “yes, some;” “yes, most;” and “yes, all.”

**4. Was the mediator active enough in helping the parties work out the issues in the dispute?**

- <sub>1</sub> No
- <sub>2</sub> Yes

This question was added in response to focus group feedback that some mediators don't do enough to help parties come to resolution.

This particular phrasing was used so that the question did not focus on reaching settlement, because reaching settlement is not the only goal in mediation. In testing, the wording was found to reliably provide feedback on whether the mediator did enough to help the parties.

**5. How well did the mediator understand what was important to you?**

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very well

This is another question that looks at procedural justice. Feeling understood points to feeling heard. This, together with question #3, provides a more complete picture of the party's experience of procedural justice and the mediator's competence in providing that experience. If the mediator is often seen as not understanding what is important to the parties, he/she may not be competent to mediate in your program.

**6. Did the mediator treat you with respect?**

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very much

This question looks at another aspect of procedural justice – respect. It provides information on whether the party is experiencing procedural justice and checks the mediator's competence in providing it.

**7. Did the mediator treat you fairly?**

- <sub>1</sub> Not at all                      <sub>2</sub> Somewhat                      <sub>3</sub> Very much

The mediator’s evenhandedness is also an important part of procedural justice. This question, therefore, provides information on whether the party is experiencing procedural justice. You should also use this question for monitoring the quality of the mediators. At minimum, mediators should be unbiased. If participants in multiple mediations don’t respond positively to this question, the mediator should be looked at more closely to decide whether any measures need to be taken to improve his or her performance, or to remove the mediator from the roster.

**8. Did the mediator push too hard to get your side to settle?**

- <sub>1</sub> Yes, the mediator pushed too hard                      <sub>2</sub> No, the mediator didn’t push too hard

Use this question for monitoring the quality of the mediators. Mediators should respect the self-determination of the parties. If participants in multiple mediations don’t respond positively to this question, the mediator should be looked at more closely to decide whether any measures need to be taken to improve his or her performance or to remove the mediator from the roster.

Even though mediators often need to push the parties in order to assist them, that pushing must stop short of coercion. This question focuses on pushing too hard to get the parties to settle. This is to keep respondents from answering based on actions mediators should be taking, such as reality testing, or because they didn’t like a particular settlement option.

**9. What was the outcome of the mediation?**

- <sub>1</sub> We reached settlement on all the issues in the case  
<sub>2</sub> We reached settlement on some of the issues in the case  
<sub>3</sub> We reached settlement on none of the issues in the case

Use this question if there is no way to match up mediator reports and survey responses, and therefore, you don’t know what the outcome of the mediation was. The term “settlement” is used instead of “agreement” because “agreement” can be interpreted in different ways. Experience has shown that when the term “agreement” is used, respondents don’t always answer the same way for the same case.

The options for this question are different from those for the attorneys and mediators. The Committee felt that unsophisticated parties wouldn’t understand all the differences between the options that are offered to the attorneys and mediators.

**10. To the best of your knowledge, were any of the following true at the time of the mediation?**

*Please check all that apply*

*Things about the case*

- A.  Some information that would have been helpful in the settlement discussions was not available at the mediation
- B.  When mediation began, the other party and I were very far apart in what we wanted the outcome of the case to be

*Things about the mediation*

- C.  The time we had to mediate was too short
- D.  Mediation occurred too soon in the case
- E.  Mediation occurred too late in the case

*Things about the participants*

- F.  Someone who was important to resolving the case wasn't at the mediation
- G.  There was anger/hostility between the other party and me
- H.  There was a large power imbalance between the other party and me

This multi-part question is included in order to understand more about:

- The characteristics of the cases that are being mediated
- The characteristics of the parties
- The party's perception of particular factors that might affect settlement

This information not only gives programs more information about cases being mediated, but can be used in an evaluation to determine if any of the factors impede settlement.

Note that parties answer these questions no matter what the outcome was. This replaces an often-used question: "If you didn't reach settlement in mediation, what do you think was the reason?". The current formulation allows programs to determine whether a characteristic that is thought to impede settlement in fact does not. That is, if parties check off particular characteristics in settled cases, this is evidence that they don't impede settlement.

You will notice that some of the characteristics that are in the mediator and attorney surveys are missing here. The reason is that in testing, the parties didn't understand them.

**11. How satisfied are you with the outcome of the mediation?**

- <sub>1</sub> Very unsatisfied
- <sub>2</sub> Unsatisfied
- <sub>3</sub> Satisfied
- <sub>4</sub> Very satisfied

Responses to this question have been found to be associated with whether settlement was reached in mediation. Despite this, the Committee kept the question in the survey because it's a question that many programs want to ask so they have an easily understood statistic about the success of the program. Note that "un" is underlined to help draw the eye to the distinction between being satisfied and unsatisfied.

This question is asked prior to asking about the party's satisfaction with their overall experience so that the opening phrase "regardless of the outcome" could be used. (See below.)

**12. Regardless of the outcome, how satisfied are you with your overall experience in the mediation session(s)?**

- <sub>1</sub> Very unssatisfied
- <sub>2</sub> Unsatisfied
- <sub>3</sub> Satisfied
- <sub>4</sub> Very satisfied

“Regardless of the outcome” was added as a way to pivot the respondent away from the previous question and to be clear that the question was independent of their view of the outcome. Nevertheless, responses to this question may be influenced by whether the case settled in mediation. Note that “un” is underlined to help draw the eye to the distinction between being satisfied and unsatisfied.

When interpreting responses, remember that the question is very broad and provides little evaluative insight into the effectiveness of the program. Despite this, the Committee kept the question because it provides a single, overarching statistic that programs want about how people feel about their experience in mediation.

**13. Overall, was the mediation process fair?**

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very much

This looks at a core value of dispute resolution processes and is an essential question for assessing procedural justice. Although the question is subjective, and thus doesn’t give information on whether the mediation was intrinsically fair, it can let you know how your program and the process are being perceived by the parties. You should be looking for trends in the responses. If a significant percentage of attorneys and parties indicate the process isn’t fair, you will need to look into the reason and address it. The same goes for whether you see a trend with particular mediators.

**14. Please tell us the things you liked about the mediation:**

The question above gives the parties the opportunity to discuss their experience in greater depth and gives you more information about the program. It also offers the possibility of using quotes in reports. If you plan to do so, you may want to add the following language above this question: “Your comments may be used anonymously in reports about the program.”

**15. Please tell us the things you didn't like about the mediation:**

The question above should be used in conjunction with question #14. It provides insight into any issues the parties might be having with the mediation program or the mediator.

**It is important for us to know who our program is serving. This will allow us to see if we are providing quality mediation service to all groups, and will also help keep our funding for mediation services. Your responses to the following questions will help us do that. You don't have to answer the questions, but your help is appreciated. Your answers will remain completely confidential.**

The Committee carefully wrote the above language as a way to encourage the parties to respond to demographic questions while not being coercive.

**Demographic information should always be at the end of the survey.** You can use the information to show that your program is serving the targeted demographic – particularly in programs focused on providing services to underserved groups and/or poor and low-income litigants. You can also use the information to do what the introductory language says – to understand better who the program is serving.

Zip Code \_\_\_\_\_

What languages do you usually speak at home? \_\_\_\_\_

**Zip code** allows you to know where the people you serve come from. If certain towns or neighborhoods aren't being served, you might look into why and whether outreach to those areas is needed. Knowing **what languages parties speak** can help you to address resources for translation, consider the need for bilingual staff and further understand those who use your services.

*Ethnicity*

- <sub>1</sub> American Indian/Alaskan Native
- <sub>2</sub> Asian
- <sub>3</sub> Black/African-American
- <sub>4</sub> Latino/Hispanic

- <sub>5</sub> Native Hawaiian/Pacific Islander
- <sub>6</sub> White, Not Hispanic
- <sub>7</sub> Multiracial
- <sub>8</sub> Other: \_\_\_\_\_

*Age Range*

- <sub>1</sub> 18 - 24    <sub>3</sub> 45 - 64
- <sub>2</sub> 25 - 44    <sub>4</sub> 65 +

*Gender:* <sub>1</sub> Male    <sub>2</sub> Female

**Ethnicity:** These categories were taken from the US census.

**Age range:** broad categories were selected because that is all that is needed in this context.

*Number of people in household:* \_\_\_

*Household Income*

- <sub>1</sub> Less than \$20,000                      <sub>3</sub> \$30,001 - \$40,000                      <sub>5</sub> More than \$50,000  
<sub>2</sub> \$20,001 - \$30,000                      <sub>4</sub> \$40,001 - \$50,000

These categories roughly fit the poverty levels for a 3-person household from the 2016 Federal Poverty Guidelines. You will want to update the categories to fit later guidelines. The first category is below the poverty level, the second up to 150%, the third up to 200% and the fourth up to 250%. The final is a big category for anyone else. The categories were selected to show how many people of need use program services. The committee felt that knowing income levels above 250% of the poverty level was unnecessary to the purpose of the question.

The number of people in household was included because the poverty guidelines are based on household size.

### QUESTION THAT WAS DELETED

**Please answer the following question IF FULL OR PARTIAL SETTLEMENT WAS REACHED:**

**10. Is the settlement fair to you?**

- ~~1. Not at all~~
- ~~2. Somewhat~~
- ~~3. Very much~~

The Committee decided not to include this commonly-asked question because, in testing, we discovered that those parties who responded that the settlement favored the other party did not mind that it did. They saw the settlement as the best they could have gotten in the circumstances, so they were satisfied with it despite their belief that they didn't get a settlement they thought was fair to them.

If you decide to use this question, you should include a follow-up question: "If the settlement was not fair to your client, what led you to agree to it?"

## OPTIONAL QUESTIONS OR ALTERNATIVE WORDING

### 1. What led you to use mediation?

- <sub>1</sub> I or my lawyer proposed using mediation, and the other side agreed
- <sub>2</sub> The other side suggested mediation, and I agreed
- <sub>3</sub> The court suggested mediation, and both sides agreed
- <sub>4</sub> The court/judge/police required me to go to mediation
- <sub>5</sub> Other: \_\_\_\_\_

You can use this question for two purposes: to track how parties see themselves as getting to mediation and to see if there is a difference in outcomes based on whether parties believe they selected mediation or feel they were required to mediate.

The options were crafted to fit with any possible method of being referred. The third and fourth options were written to avoid using the terms voluntary and mandatory. This was done in part because parties don't know whether mediation is mandatory, and in part because parties sometimes see mediation as mandatory simply when it's suggested. Understanding these limitations, it's best to use this question in evaluation as a subjective one. For example, instead of reporting "20% of parties were required by the court to participate in mediation" you would report "20% of parties said they were required by the court to participate in mediation."

Note that response option #4 has 3 choices as to who required the party to go to mediation. Choose the one that best fits your program. If more than one does, then split this response option into two.

NOTE: This question should be placed between the question "What is your role in the case?" and the question "Was your lawyer with you at the mediation?".

[NOTE ON IMPLEMENTATION: The next two questions should be placed between the question "Was your lawyer with you at the mediation?" and the question "Were you able to talk about the concerns and issues that were most important to you?"]

### 2. How well did your lawyer prepare you for the mediation?

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very well

The question may help determine why mediation may be more successful in some cases than in others. It is helpful for programs that want to know if educating attorneys about mediation preparation would be useful. For example, if a significant number of parties answer "not at all" or "somewhat," you may want to provide training.

### 3. How clearly did the mediator explain what would happen in mediation?

- <sub>1</sub> Not at all clearly
- <sub>2</sub> Somewhat clearly
- <sub>3</sub> Very clearly
- <sub>4</sub> The mediator didn't explain what would happen.

This question is good for programs with a significant number of unsophisticated and/or unrepresented parties who need to understand the mediation process. It is also useful for programs in which the rules outline the mediator's responsibility to explain mediation to the parties. This provides those programs with information about whether mediators are doing what is required and permits them to monitor the quality of the mediators.

[NOTE ON IMPLEMENTATION: The following 7 questions should be placed after the question "Did the mediator push your side too hard to get you to settle?". If you use more than one of them, they should be placed in the order they appear here.]

**4. How much did the mediation help you to think about different options for solving the dispute?**

- <sub>1</sub> Not at all                                      <sub>2</sub> Some                                      <sub>3</sub> A lot

Note that the above says “mediation” not the “mediator”. The committee decided upon this terminology because they believed that the parties would not be able to tell whether it was the mediator who helped them or the process itself.

**5. Did you have the chance to express your feelings in mediation?**

- <sub>1</sub> Not at all                                      <sub>2</sub> Somewhat                                      <sub>3</sub> Very much

This question is good for programs either with cases in which feelings would play a large part of the dispute or in programs in which facilitative or transformative styles are mandated or encouraged.

**6. Do you understand the other party’s point of view better than you did before mediation?**

- <sub>1</sub> Not at all better  
<sub>2</sub> Somewhat better  
<sub>3</sub> Much better  
<sub>4</sub> Does not apply/I understood the other party’s point of view well before mediation

Notice the fourth option. Without it, it is impossible to properly interpret what parties mean when they respond “not at all better”. It could be that they felt they understood the other party’s point of view before the mediation. Or it could be that they felt that they didn’t understand and the mediation didn’t help them to understand the other party’s point of view any better. Separating those two concepts provides clarity and validity to the question.

**7. How do you think mediation will affect communication between you and the other party?**

- <sub>1</sub> Make it a lot worse  
<sub>2</sub> Make it somewhat worse  
<sub>3</sub> Have no impact  
<sub>4</sub> Improve it somewhat  
<sub>5</sub> Improve it a lot  
<sub>6</sub> Not applicable/No future communication is likely  
<sub>7</sub> I don’t know

This question is good for programs that have cases in which future relationships are likely – such as business-to-business disputes – or for programs that have the goal of enhancing communication between parties.

**8. Did you know/have a relationship with the opposing party before this case was filed?**

- <sub>1</sub> No relationship – the other party is a stranger to me other than this case  
<sub>2</sub> Yes

This question is useful for evaluative purposes – do cases in which the parties have a relationship have different outcomes than those in which the parties don’t? It can also provide context for Question #4.

**9. How important is it to you or your company or organization that you have a future relationship with the opposing party after this case is resolved?**

- <sub>1</sub> Not at all important                                      <sub>2</sub> Somewhat important                                      <sub>3</sub> Very important

This question provides context for question #4. If the parties have little interest in a future relationship, they won’t place importance on maintaining that relationship during the mediation, which could affect this particular outcome. Further, if a future relationship isn’t important, the response to question #4 doesn’t matter as much to the parties as it would if a future relationship is important.

**10. How do you think mediation will affect your relationship with the other party?**

- <sub>1</sub> Make it a lot worse
- <sub>2</sub> Make it somewhat worse
- <sub>3</sub> Have no impact
- <sub>4</sub> Improve it somewhat
- <sub>5</sub> Improve it a lot
- <sub>6</sub> Not applicable/No future relationship is likely
- <sub>7</sub> I don't know

This question can be used for two purposes:

- To monitor the quality of the mediators – if the program generally involves cases in which relationships are important, the mediators should manage the mediation in such a way that the relationship is not harmed
- To evaluate whether the program is achieving its goal of maintaining relationships between parties

Three things to note with this question:

1. The question includes the phrase “do you think” to emphasize that this question is subjective in nature. If you report on this question, be sure to say that the parties believed mediation helped/harmed their client’s relationship with the other party. Do not say that “mediation helped/or harmed the parties’ relationship.”
2. It includes a “not applicable/no future relationship is likely” option in order to cover all possible responses to this question.
3. While it should be used in conjunction with questions #2 and #3 above, it can be used alone in situations in which the parties almost always have a relationship that should be maintained.

**11. Could you have reached settlement without the mediator’s help?**

- <sub>1</sub> Yes
- <sub>2</sub> Yes, but not as quickly
- <sub>3</sub> No
- <sub>4</sub> I don't know

This question can be used to discover the added value of mediation. One response to the use of settlement rates to demonstrate the value of mediation is that most cases settle without going to trial. This question answers that critique by asking about the impact of the mediator on a more timely settlement.

Note: If you use this question, place it after the question, “What was the outcome of the mediation?”.

**12. Please rate the mediation program on the following features by checking the box that best reflects your response:**

A. The quality of overall service from program staff prior to the mediation	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor
B. Program staff communications with you prior to mediation	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor
C. Convenience of the location for mediation	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor
D. Convenience of the times available to mediate	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor

These questions are meant for full-service mediation programs with an administrative staff and set times and place for mediation.

Note the response options. The Committee decided to use these four options rather than the traditional “Excellent/good/fair/poor” because they provide two positive response options and two negative ones.

NOTE: This question should be placed directly before the question “How satisfied are you with the outcome of the mediation?”

[NOTE ON IMPLEMENTATION: The next 2 questions should be placed directly after the question “Was the mediation process fair?.”]

**13. Would you use mediation again?**

<sub>1</sub> Yes

<sub>2</sub> No

<sub>3</sub> Possibly

Why or why not? \_\_\_\_\_  
\_\_\_\_\_

This question is considered to be a good proxy for mediator quality. If the parties say they would use the mediator again, then they are happy with the mediator’s services. The Committee decided to make this an optional question because the core questions that examine the quality of the mediation were less broad and, therefore, would give more useful feedback.

**14. Would you use this mediator again?**

<sub>1</sub> Yes

<sub>2</sub> No

<sub>3</sub> Possibly

Why or why not? \_\_\_\_\_  
\_\_\_\_\_

This question is considered to be a good proxy for mediator quality. If the parties say they would use the mediator again, then they are happy with the mediator’s services. The committee decided to make this an optional question because unsophisticated parties might not be able to provide a response that can be relied upon to determine the quality of the mediator. However, it can be used as a way of determining party satisfaction with the mediator.

**15. When the case was filed, how much money did the plaintiff want from the defendant**

<sub>1</sub> Less than \$10,000

<sub>2</sub> \$10,000 - \$50,000

<sub>3</sub> \$50,001 - \$100,000

<sub>4</sub> \$100,001 - \$500,000

<sub>5</sub> \$500,001 - \$1,000,000

<sub>6</sub> More than \$1,000,000

<sub>7</sub> There was no monetary claim

<sub>8</sub> I don’t know

This question is suitable for programs in which there is a wide range in the amount of money that could be involved. It can be used by the court to track what types of cases are using mediation. This question can also be used to determine how case characteristics affect outcomes. Doing so would require advanced statistical analysis. Use this question for parties only if the parties tend not to have an attorney with them in mediation because the attorneys’ responses will be more reliable.

NOTE: This question should be placed directly before the question “Please tell us what you liked about the mediation.”

<INSERT PROGRAM NAME>

**Model Party Survey**

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

<b>Case Name:</b>	<b>Case Number:</b>
<b>Mediator Name:</b>	<b>Referring Judge:</b>

**1. What is your role in the case?**

- <sub>1</sub> Plaintiff (person filing lawsuit)
- <sub>2</sub> Defendant (person being sued)
- <sub>3</sub> Other \_\_\_\_\_

**2. Was your lawyer with you at the mediation?**

- <sub>1</sub> Yes, my lawyer was with me
- <sub>2</sub> No, my lawyer was not with me
- <sub>3</sub> I don't have a lawyer for this case

**3. Were you able to talk about the issues and concerns that were most important to you?**

- <sub>1</sub> We were able to talk about none of the issues and concerns that were most important to me
- <sub>2</sub> We were able to talk about some of the issues and concerns that were most important to me
- <sub>3</sub> We were able to talk about most of the issues and concerns that were most important to me
- <sub>4</sub> We were able to talk about all of the issues and concerns that were most important to me

**4. Was the mediator active enough in helping the parties work out the issues in the dispute?**

- <sub>1</sub> No
- <sub>2</sub> Yes

**5. How well did the mediator understand what was important to you?**

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very well

**6. Did the mediator treat you with respect?**

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very much

**7. Did the mediator treat you fairly?**

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very much

**8. Did the mediator push too hard to get your side to settle?**

- <sub>1</sub> Yes, the mediator pushed too hard
- <sub>2</sub> No, the mediator didn't push too hard

**9. What was the outcome of the mediation?**

- <sub>1</sub> We reached settlement on all the issues in the case
- <sub>2</sub> We reached settlement on some of the issues in the case
- <sub>3</sub> We reached settlement on none of the issues in the case

**10. To the best of your knowledge, were any of the following true at the time of the mediation?**

*Please check all that apply*

*Things about the case*

- A.  Some information that would have been helpful in the settlement discussions was not available at the mediation
- B.  When mediation began, the other party and I were very far apart in what we wanted the outcome of the case to be

*Things about the mediation*

- C.  The time we had to mediate was too short
- D.  Mediation occurred too soon in the case
- E.  Mediation occurred too late in the case

*Things about the participants*

- F.  Someone who was important to resolving the case wasn't at the mediation
- G.  There was anger/hostility between the other party and me
- H.  There was a large power imbalance between the other party and me

**11. How satisfied are you with the outcome of the mediation?**

- <sub>1</sub> Very unssatisfied
- <sub>2</sub> Unsatisfied
- <sub>3</sub> Satisfied
- <sub>4</sub> Very satisfied

**12. Regardless of the outcome, how satisfied are you with your overall experience in the mediation session(s)?**

- <sub>1</sub> Very unssatisfied
- <sub>2</sub> Unsatisfied
- <sub>3</sub> Satisfied
- <sub>4</sub> Very satisfied

**13. Overall, was the mediation process fair?**

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very much

**14. Please tell us the things you liked about the mediation:**

**15. Please tell us the things you didn't like about the mediation:**

**It is important for us to know who our program is serving. This will allow us to see if we are providing quality mediation service to all groups, and will also help keep our funding for mediation services. Your responses to the following questions will help us do that. You don't have to answer the questions, but your help is appreciated. Your answers will remain completely confidential.**

Zip Code \_\_\_\_\_

What languages do you usually speak at home? \_\_\_\_\_

*Ethnicity*

- <sub>1</sub> American Indian/Alaskan Native
- <sub>2</sub> Asian
- <sub>3</sub> Black/African-American
- <sub>4</sub> Latino/Hispanic

- <sub>5</sub> Native Hawaiian/Pacific Islander
- <sub>6</sub> White, Not Hispanic
- <sub>7</sub> Multiracial
- <sub>8</sub> Other: \_\_\_\_\_

*Age Range*

- <sub>1</sub> 18 - 24     <sub>3</sub> 45 - 64
- <sub>2</sub> 25 - 44     <sub>4</sub> 65 +

*Gender:*  <sub>1</sub> Male     <sub>2</sub> Female

*Number of people in household:* \_\_\_\_

*Household Income*

- <sub>1</sub> Less than \$20,000                       <sub>3</sub> \$30,001 - \$40,000                       <sub>5</sub> More than \$50,000
- <sub>2</sub> \$20,001 - \$30,000                       <sub>4</sub> \$40,001 - \$50,000

## OPTIONAL QUESTIONS OR ALTERNATIVE WORDING FOR MODEL PARTY SURVEYS

### 1. What led you to use mediation?

- <sub>1</sub> I or my lawyer proposed using mediation, and the other side agreed.
- <sub>2</sub> The other side suggested mediation, and I agreed.
- <sub>3</sub> The court suggested mediation, and both sides agreed.
- <sub>4</sub> The court/judge/police required me to go to mediation.
- <sub>5</sub> Other: \_\_\_\_\_

### 2. How well did your lawyer prepare you for the mediation?

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very well

### 3. How clearly did the mediator explain what would happen in mediation?

- <sub>1</sub> Not at all clearly
- <sub>2</sub> Somewhat clearly
- <sub>3</sub> Very clearly
- <sub>4</sub> The mediator didn't explain what would happen.

### 4. How much did the mediation help you to think about different options for solving the dispute?

- <sub>1</sub> Not at all
- <sub>2</sub> Some
- <sub>3</sub> A lot

### 5. Did you have the chance to express your feelings in mediation?

- <sub>1</sub> Not at all
- <sub>2</sub> Somewhat
- <sub>3</sub> Very much

### 6. Do you understand the other party's point of view better than you did before mediation?

- <sub>1</sub> Not at all better
- <sub>2</sub> Somewhat better
- <sub>3</sub> Much better
- <sub>4</sub> Does not apply/I understood the other party's point of view well before mediation

### 7. How do you think mediation will affect communication between you and the other party?

- <sub>1</sub> Make it a lot worse
- <sub>2</sub> Make it somewhat worse
- <sub>3</sub> Have no impact
- <sub>4</sub> Improve it somewhat
- <sub>5</sub> Improve it a lot
- <sub>6</sub> Not applicable/No future communication is likely
- <sub>7</sub> I don't know

### 8. Did you know/have a relationship with the opposing party before this case was filed?

- <sub>1</sub> No relationship - the other party is a stranger to me other than this case
- <sub>2</sub> Yes

### 9. How important is it to you or your company or organization that you have a future relationship with the opposing party after this case is resolved?

- <sub>1</sub> Not at all important
- <sub>2</sub> Somewhat important
- <sub>3</sub> Very important

**10. How do you think mediation will affect your relationship with the other party?**

- <sub>1</sub> Make it a lot worse
- <sub>2</sub> Make it somewhat worse
- <sub>3</sub> Have no impact
- <sub>4</sub> Improve it somewhat
- <sub>5</sub> Improve it a lot
- <sub>6</sub> Not applicable/No future relationship is likely
- <sub>7</sub> I don't know

**11. Could you have reached settlement without the mediator's help?**

- <sub>1</sub> Yes
- <sub>2</sub> Yes, but not as quickly
- <sub>3</sub> No
- <sub>4</sub> I don't know

**12. Please rate the mediation program on the following features by checking the box that best reflects your response.**

A. The quality of overall service from program staff prior to the mediation	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor
B. Program staff communications with you prior to mediation	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor
C. Convenience of the location for mediation	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor
D. Convenience of the times available to mediate	<input type="checkbox"/> <sub>1</sub> Excellent	<input type="checkbox"/> <sub>2</sub> Satisfactory	<input type="checkbox"/> <sub>3</sub> Unsatisfactory	<input type="checkbox"/> <sub>4</sub> Poor

**13. Would you use mediation again?**

- <sub>1</sub> Yes
- <sub>2</sub> No
- <sub>3</sub> Possibly

Why or why not? \_\_\_\_\_  
\_\_\_\_\_

**14. Would you use this mediator again?**

- <sub>1</sub> Yes
- <sub>2</sub> No
- <sub>3</sub> Possibly

Why or why not? \_\_\_\_\_  
\_\_\_\_\_

**15. When the case was filed, how much money did the plaintiff want from the defendant?**

- <sub>1</sub> Less than \$10,000
- <sub>2</sub> \$10,000 - \$50,000
- <sub>3</sub> \$50,001 - \$100,000
- <sub>4</sub> \$100,001 - \$500,000
- <sub>5</sub> \$500,001 - \$1,000,000
- <sub>6</sub> More than \$1,000,000
- <sub>7</sub> There was no monetary claim
- <sub>8</sub> I don't know