

MODEL TOOLS FOR MEDIATOR PEER REVIEW

**INCLUDES MODEL POLICY,
OBSERVATION FORM AND
SELF-REFLECTION TOOL**

RESOLUTION SYSTEMS INSTITUTE



RSI

RSI Peer Review Tools

These tools were originally developed, through the generous funding of the Illinois Bar Foundation, for the Kane County Child Protection Mediation Program, which utilizes a co-mediation model to serve families of children who are in the foster care system. The tools, as presented here, have been adapted for general use by any mediation program.

Included are:

- A **Peer Review Policy**, which sets forth goals, procedures and expectations for the program and its mediators
- A **Mediator Observation Tool**, which provides a rubric for peer observers to assess the relative strengths of and challenges encountered by the mediator
- A **Self-Reflection Tool**, which gives the mediator a reference to evaluate and reflect on their performance following the mediation session



MEDIATION PROGRAM PEER REVIEW PROCESS

PROJECT GOALS

The peer review process serves several objectives:

1. The process *ensures that participants are receiving quality mediation services*. Given the disproportionate level of poverty, lack of education and other indicators consistent with inability to access legal services present in the served population, it is imperative that these mediation services be of the highest quality. Conducting peer review provides a view of the mediators' performance and allows the Program and the Court to take corrective action where necessary.
2. The process *fosters the growth of mediator skills*. Discussing and dissecting their tactics and decision-making allows a mediator to gain awareness of their patterns, finding strengths to leverage and weaknesses to shore up. In completing a self-assessment after the mediation session, the mediator gains a new perspective on the experience, removed from the intensity of the mediation table. Information gained from peer review will inform the Program as to what topics can be covered in subsequent continuing education sessions.
3. The process *galvanizes the mediator community*. Through observing and reflecting with one another, the mediators will build rapport and camaraderie. By being able to candidly assess one another, the mediators will grow more comfortable with one another, which will in turn allow them to work better when they are paired during mediation. New ideas may flourish, and the program, the court and the community will be better for it.



PEER REVIEW PROCEDURE

The goal of peer review is for every mediator to be reviewed, be approved, and, in turn, become an observer. Each mediator will be observed no less than once per year, provided caseload and staffing allows.

To begin that process, the mediators will attend a training session for mediators that will prepare them to take on the role of observers. Such training should focus on strengthening the active listening skills of the Peer Observers and improve their ability to give constructive feedback to the Mediator.

In order to participate in the Peer Review process, **which is a requirement for continued participation in the program**, a mediator must review, sign and return this policy statement to the Program Administrator.

Prior to the Mediation Session

1. When the Program Administrator determines that it is a mediator's turn to be peer reviewed, the Administrator will select a Peer Observer.
2. After the Peer Observer confirms their availability, the Program Administrator will notify the mediator that they will be observed.
3. Before the mediation session, the Peer Observer will check in with the Mediators and Program Administrator to determine logistics, including seating arrangements during joint session and caucuses.
4. The Program Administrator will coordinate with the Peer Observer to ensure they have the appropriate documents to observe the mediation session.

During the Mediation Session

1. During the Mediators' Opening Statement, the Mediator shall reference the Agreement to Mediate and obtain all participants' permission to be observed. If there is an objection to observation, the Peer Observer shall be dismissed. The Program Administrator will reschedule the Mediator to be observed, providing a Peer Observer is available. The Peer Observer need not be the same one.
2. The mediation will proceed as normal, with the Peer Observer watching the entirety of the session, employing the skills learned in their Observation Training and the procedures and expectations set forth in this document.
3. The Peer Observer will not participate in the mediation they are observing.



After the Mediation Session

1. Following the session, the Mediators and the Peer Observer will discuss the skills and knowledge used during mediation. They may ask questions of one another so that they can better understand the other's perspective. While the Peer Observer may refer to the observation tool as a reference during the debrief, it is not intended as a report to the Mediator or anyone else and it will not be provided to the Mediator for review.
2. Within 24 hours after the debrief session, the Peer Observer will report to the Program Administrator on the Mediator's performance. This reporting should focus on mediator performance and not the particulars of the case.
3. Following review of the Mediator's performance, which will include both the feedback from the Peer Observer as well as the Participant Surveys, the Program Administrator will make a determination regarding the Mediator's performance. If the Mediator is meeting expectations, the Program Administrator will convey that determination to the Mediator and no further action will be taken.
4. If the Program Administrator determines that some additional action is needed, the Program Administrator will convey that determination to the mediator. That action may include a private meeting with the Program Administrator; attending certain continuing education trainings to be provided by the Program or requiring the Mediator to observe additional mediation sessions.
5. In cases of egregious or repeated serious misconduct, **the Program Administrator may recommend to the Court that the Mediator be removed from the roster.**
6. The final decision of continued inclusion on the roster of approved mediators rests with the Chief Judge.



Mediation Observation Form

Mediator observed _____

Observer _____ Date _____

The purpose of this form is to give you a place to take notes while you observe a mediator. Prompts are included to jog your thinking about mediator behaviors. Feel free to write outside the boxes, check off items, etc. Once the observation process is complete, you will hand this in to the office and they will destroy it. It will not be shared with the mediator.

Instructions to Observer

Use "Stages" to track what the mediator does at each step in the process. If something out of the ordinary happened, use page 4 to write about it. If you need more room for notes about the joint sessions or separate meetings, use pages 5-7.

STAGES

Welcoming	✓
Mediator establishes a safe, welcoming environment for all participants	

Mediator Orientation		✓
Mediator covers all necessary items and sets the tone for the mediation		
Introductions: self, co-mediator, participants	Confidentiality and exceptions to it: <ul style="list-style-type: none"> • New allegations of abuse/neglect • Threats - serious imminent harm • Mandated reporters • Agreement will go to court 	Reporting to court: <ul style="list-style-type: none"> • If agreement reached, terms will be reported to court • If no agreement, that fact will be reported to the court
Purpose of mediation		
Mediators' role		
Voluntariness		
Neutrality		
		Disclose any relationships
		Sign Agreement to Mediate
		Questions?



Keep the following in mind as you observe the mediation:

Functions effectively as co-mediator
Maintains safe setting
Generally understands subject matter of dispute
Able to work through mediation stages
Uses appropriate language, e.g., doesn't talk down to parties and isn't too erudite
Operates within ethical parameters, e.g.: <ul style="list-style-type: none"> ○ Self-determination ○ Confidentiality ○ Neutrality ○ Voluntariness
Uses effective mediation techniques e.g.: <ul style="list-style-type: none"> ○ Listening ○ Reflecting emotions ○ Clarifying the agenda ○ Reality testing

Joint Session – 1	✓
Mediator assists participants in surfacing issues that need to be discussed	

Identifying issues/Setting agenda	✓
Mediator assists participants in setting agenda for the mediation session	



Joint Session – 2	✓
Mediator assists parties in working on items on the agenda	

See last page for more space for joint session notes.

Caucus – 1	✓
Mediator explains purpose of caucus clearly to parties,	
Mediator calls for caucus at appropriate times	
Mediator reiterates confidentiality policy	
Mediator checks in with the party or parties to see how they are feeling	
Mediator is able to surface new issues that did not arise during joint session and/or further explore ideas that did	
Mediator is able to build rapport while maintaining neutrality	

See penultimate page for more space for separate meeting notes.

Reaching or not Reaching Agreement	✓
Mediator assists parties in deciding what they can agree on.	
Helps parties memorializes agreed points in a manner that is clear and represents the participants' intentions.	



Concluding Mediation	✓
Mediator compliments participants, makes sure they know what happened in mediation (to extent possible), informs them of next steps and safely sends them on their way	

OCCASIONAL BUMPS IN THE ROAD

Every mediation is different and presents unique challenges. Use the space below to note how the mediator you are observing responded to any unusually difficult situations. Examples might include, emotional outbursts, lack of party capacity, or threats of violence.



MORE JOINT SESSION NOTES

Joint Session – #	✓

Joint Session – #	✓



Joint Session – #	✓

Joint Session – #	✓

MORE CAUCUS NOTES

Caucus – #	✓



Caucus – #	✓

Caucus – #	✓

Caucus – #	✓



Mediator Self-Reflection Tool

This tool is meant to help you continue to develop as a mediator by reflecting on your mediations. It is for your private use and will not be collected by the program. To protect confidentiality, do not include any identifying information about the parties and when filled out, do not share this tool with others.

Start by giving yourself a quick review of how well you did the items listed below using this scale:

4 = did it very well 3 = did it okay 2 = did it poorly 1 = didn't do it NA = Not Applicable

Guiding the mediation process	Self-review: _____
Using separate and joint sessions effectively	Self-review: _____
Reflecting and working with emotions	Self-review: _____
Identifying needs and interests	Self-review: _____
Encouraging communication	Self-review: _____
Generating new ideas, options	Self-review: _____
Encouraging progress, overcoming obstacles	Self-review: _____
Communicating respect and empathy	Self-review: _____
Remaining neutral and coming across as neutral	Self-review: _____
Supporting party self-determination	Self-review: _____

Next, reflect on the following prompts.

Things you did particularly well in this mediation

Things you would do differently next time

What did the parties need from you? (Answer only about what is legitimate in the mediation context.)
How did you try to address those needs? Did it work? Why or why not?

If this was a peer reviewed mediation, what was/was not helpful about your debrief with the observer?
