

MEDIATOR EXCELLENCE COUNCIL
Meeting Summary
February 26, 2007

Present: Ramona Buck, MACRO; Lou Gieszl, MACRO; Rob Ketcham for Nancy Hirshman, MCDR; Pat Jackson, Consumer Representative; Cheryl Jamison, Staff to the MEC; Martin Kranitz, Evaluation Task Group; Louise Phipps Senft, Grievance Task Group; Liz Ribas, Training Task Group; Jonathan Rosenthal, Vice Chair of the MEC & District Court; Tara Taylor, Chair of the MEC & Roster Managers

Next Meeting: Thursday, March 29, 2007 1:30 p.m. – 4:00 p.m. at MACRO.

Issues to be discussed and/or decisions to be made at the next meeting:

- Report from the Governance Committee – Duties and Responsibilities of the MEC – 2nd Discussion
- Status Report from the Certification Task Group
- Report from the Consumer Education Task Group – Proposal to change the name and location on the tree
- Report on Organizational Meetings of the Diversity Task Group

There were not enough voting members to constitute a quorum. The following discussion took place.

1. Opening Round

Tara asked the following question for the opening round: What are the general issues or policies which the MEC needs to address in the future? Responses were:

- MPME Standards of Conduct
 - Are they too general to be useful in providing direction to mediators and to the Ombuds?
 - What effect does the Standards have if you belong to another profession with their own standards?
 - Is it clear enough that the Standards do not incorporate Title 17 which prohibits evaluative mediation?
- How do we document and build in for the future that this is and is to remain a collaborative process, no matter who is at MACRO?
- What happens to data collected by the MPME? How should it be stored? How do we protect it? Who is the custodian?
- How can we document things that can support rosters? How to pull them in, how to get started; how to move it forward?
- What is a mediation-related activity?
- Consistent language on what it means to have completed a MPME activity
- How to keep members focused on continuing improvement?
- How to get the word out about the MPME?

- How to get beyond the question of why should I join and what can it do for me?
- Identify the benefits of the MPME
- Develop ways to encourage MPME members to use mediation themselves and share the experience
- Create some type of reward/appreciation system for members

2. Report from the Training Task Group – Best Practices for Basic Mediation Training

Liz presented revisions to the Proposed Best Practices for Basic Mediation Courses based on the comments made during our last discussion. The major new portions are highlighted in black in the proposal below.

Maryland Program for Mediator Excellence Mediator Excellence Council February 26, 2007

Proposal by the Training Task Group Best Practices for Basic Mediation Training

Background Statement

In late 1999, the Maryland ADR Commission, under the leadership of Chief Judge Robert M. Bell, published *Join the Resolution*, a consensus-based practical action plan to advance the appropriate use of mediation and conflict resolution statewide. There was only one major area in which consensus could not be reached; that was mediator quality assurance. The ADR Commission decided that further study and consensus building was needed on this topic and as a result, MACRO convened a quality assurance committee. The committee members were representatives of the four ADR practitioner groups; the MD Chapter of the Association for Conflict Resolution (ACR), the MD Council for Dispute Resolution (MCDR), Community Mediation Maryland (formerly the MD Association of Community Mediation Centers), the MD State Bar Association's ADR Section and MACRO. The committee, with the participation of hundreds of people from around the state and across the country, collaboratively designed a quality assistance system, called the Maryland Program for Mediator Excellence.

The Maryland Program for Mediator Excellence (MPME) is designed to offer all Maryland mediators opportunities to improve the quality of their practice. The symbol for the Maryland Program for Mediator Excellence (MPME) is a tree with many branches and roots, providing members with stimulating choices to continue their learning, growth and experience as mediators

The Mediator Excellence Council (MEC) is the governing body of the Maryland Program for Mediator Excellence. The MEC is currently comprised of representatives from: the MD

Chapter of the Association for Conflict Resolution (ACR); the MD Council for Dispute Resolution (MCDR); Community Mediation Maryland (formerly the MD Association of Community Mediation Centers); the MD State Bar Association’s ADR Section and MACRO.

There are also representatives from the circuit and district courts, a roster program and a consumer representative. The Chair of each of the MPME Task Groups also sits on the council.

PREAMBLE

The Training Task Group has as its goal the development of Best Practices for Basic Mediation and Advanced Mediation Training. The following Best Practices for Basic Mediation is offered by the Maryland Program for Mediator Excellence (MPME) to assist mediation trainers in designing training in basic mediation. It can also serve as one source of information for consumers in Maryland interested in basic mediation training.

The practices articulated in this document represent the acquired wisdom of the mediation community in Maryland and research within the larger mediation community outside Maryland with regard to this issue. These best practices emerged through collaborative conversation among Maryland trainers in meetings and discussions hosted by the MPME Training Task Group. It is noteworthy that empirical support for training standards is embryonic, an enterprise ripe for research (see, for example, “Bibliography” to *Mediator Quality Assurance: Final Report to the Maryland Mediator Quality Assurance Oversight Committee* by Charles Pou, Jr. contact MACRO at 410-841-2260). The best practices represented in this document may be revised as future research develops new knowledge in this area.

It is in the nature of a best practice document to be aspirational. Trainers may not always be able to meet all the best practices indicated here during any particular training. It is hoped that trainers will use this document as both a guideline and an invitation to reflect on possibilities for designing training programs that prepare trainees to mediate competently.

Best Practices for Basic Mediation Training

CLASS SIZE & RATIOS

The following Best Practices are based on a class size that is *small* enough to allow for individual attention, a safe learning environment, and the greatest opportunity for all trainees to fully participate. They are also based on a class that is *large* enough to have a variety of participants from various backgrounds that will encourage good discussion and offer enough trainees to be able to practice the skills taught.

Training Component	Best Practice Recommendations
Trainer to trainee ratio	1:12 trainer to trainee/participant ratio
Number of coaches for role plays	1 trainer/coach per role play group

TRAINING TIMEFRAME

The Best Practices time frame recommendations reflect the concern that knowledge be taught in a manner that helps trainees move as quickly from the classroom to actual mediating as possible, reflecting the view that mediation is a craft best learned by practicing the skills taught. They also reflect the knowledge that training can be presented in a variety of formats, including but not limited to multiple stage basic training, semester long courses, multiple weekends, and week long intensives or in multiple courses.

Training Component	Best Practice Recommendations
Training Hours	40+ hours of total classroom training
Timeframe in Which Training Occurs	The 40+ hour total classroom training should be completed within <i>30 calendar days</i> with the exception of semester long courses which by design last several months
Link with Practical Mediation Experience	Trainers or training programs should provide a link between classroom training and practical experience such as observations or other opportunities .

CURRICULUM

Best Practices for training curriculum recognizes there are a variety of skills and lessons taught in mediation training courses. Trainers and training programs should be aware of the diversity and differences among trainees and clients and adapt their programs accordingly.

Training Component	Best Practice Recommendations
Mediation Orientation	An explanation of the mediation style/orientation/methodology based on the particular process that is being taught in the course
Overview of ADR	This should include: <ul style="list-style-type: none"> ▪ History of ADR ▪ Mediation Landscape: Information on national, state and local practitioner groups, resources and networks and practice opportunities in the field, in writing when possible. ▪ Training should emphasize that Basic Mediation Training is only the first step on the journey to quality

	<p>mediation.</p> <ul style="list-style-type: none"> ▪ Overview of ADR processes including arbitration, mediation, med-arb, settlement conference, neutral case evaluation, conciliation, litigation (refer to ADR definitions in the ADR Commission report and the definitions developed by the MEC Definitions Task Group.
Ethics and Standards	<ul style="list-style-type: none"> ▪ Approved MPME Maryland Standards of Conduct for Mediators to be presented to trainees verbally and in writing. The Standards include sections on: <ol style="list-style-type: none"> 1. Self Determination 2. Impartiality 3. Conflicts of Interest 4. Competence 5. Confidentiality 6. Quality of the Process 7. Advertising and Solicitation 8. Fees and Other Charges 9. Advancement of Mediation Practice <p>(See the approved MPME Maryland Standards of Conduct for Mediators)</p> <ul style="list-style-type: none"> ▪ The trainees to participate in role plays specifically crafted to address more than one ethical dilemma and have structured processing sessions afterwards to discuss and debrief. ▪ The ethical standards also to be woven throughout the basic mediation training in discussion, examples and exercises. ▪ Trainers should make trainees aware that standards and practices vary across venues. ▪ Trainers preparing trainees for a specific venue should cover the standards of that venue in the training.
Mediator Skills and Strategies	<p>Some topics and/or mediator skills and strategies which could be included are: Listening; Reframing; Open ended questioning; Reflecting; Summarizing; Verbal and nonverbal communication; Feedback; Barriers to</p>

	communication; Identification of feelings, positions, values, interests and issues; Brainstorming; Problem-solving; Negotiation; Empowerment; Power dynamics; Use of Separate Sessions; Screening cases for violence/abuse issues; Writing agreements; Conflict de-escalation, Anger management, etc.
Theory	Some topics which could be included: Philosophy of particular mediation frameworks; Self-determination; Styles of communication and conflict; types of conflict; Different conflict resolution theories; Social, anthropological and/or related legal studies or theories.

TRAINING TECHNIQUES

People learn in different ways. To meet Best Practices recommendations trainers should use a variety of training techniques, learning styles, and presentation formats to effectively connect trainees with the principles of basic mediation. Techniques used should develop skills identified in the previous curriculum section as well as encourage community building, risk-taking, and self-reflection. One of the most important techniques is role-play, as it gives trainees practical experience in mediation. Acknowledging that different trainers will have varying definitions of the components of a role-play, specific components of Best Practices should include the following:

Techniques:

An **experiential training technique or exercise** is a structured activity that focuses on a particular component of the training, that involves the trainees and that requires interaction between individuals.

Training Component	Best Practice Recommendations
Training techniques which should be included in the training	Demonstration, Discussion, Feedback, Lecture, Questions & Answers, Mediation Role Plays
Percentage of Experiential Training Techniques	More than 50% of the training techniques should be experiential, including role plays. Examples of experiential techniques include: small and large group activities, mock practice sessions, partner feedback sessions, skill drills
Other Techniques for Possible Inclusion	Videos, read-arounds, writing and reading assignments, storytelling

Role-Plays:

A **mediation role play** is an experiential exercise in which all or some aspects of a mediation are simulated and in which one or more trainees play the mediator and one or more trainees play the disputant(s) in a conflict.

Training Component	Best Practice Recommendations
Number of Role plays	Each trainee should participate in no fewer than four role plays, one of which should be a full mediation role play in the role of mediator. A full mediation role play includes all components and/or steps of the mediation process being taught.
Participation in the Mediation Role plays	A variety of topics/themes/levels of conflict & ethical situations should be used in the role plays.
Number and role of coaches	There should be 1 trainer/coach per role play group to provide oral feedback. Each trainee should be observed in the role-plays and receive feedback from at least two trainers/coaches throughout the course of the training throughout the training course.

COACHES

Training Component	Best Practice Recommendations
Selection of Coaches	Coaches should be experienced mediators and should be selected by the trainer(s).
Preparation of Coaches	Coaches should have previous experience in coaching with the trainer(s) or should participate in a pre-briefing session with the trainer(s) to coordinate coaching requirements, style and feedback.
Activities of Coaches	Coaches should offer clear feedback to trainees, identifying strengths and specific action steps for areas needing improvement. Coaches should also give clear feedback to the trainer about the observed trainees.

EVALATION PROCESS (this entire section is new)

Evaluation refers to two distinct types of evaluation, (a) feedback given to the trainee from the trainer/coach regarding the trainee's progress and (b) feedback received by the trainer from trainees about the quality of the training.

Training Component	Best Practice Recommendations
Feedback to Trainees	<p>Trainers and/or coaches *(see coaches section) should give ongoing feedback to trainees, as needed throughout the training.</p> <p>At the end of the training the team of trainers/coaches should give feedback to each trainee indicating the trainee's strengths and areas to focus on in the future.</p> <p>Trainers could provide trainees with a self evaluation form to be completed by the trainee at the end of the training.</p>
Feedback to Trainers	<p>At the conclusion of the training, the trainer should provide a training evaluation form to the trainees for their written feedback. This feedback can help determine if the trainer's learning objectives were met, and can provide guidance for improving future trainings.</p>

Currently individual trainers and/or programs may develop their own evaluation forms. The MPME Training Task Group anticipates that it will work with the MPME Evaluation Task Group in the future to develop some suggested questions, forms and trainee self-evaluation forms as a resource for trainers.

NOTE: The Training Task Group plans to address the following sections at future meetings.

Trainer Standards.
Marketing

End of Proposal

Here is a summary of the discussion, which took place.

Training Component (page 4)

- Is there any reason that the 40 hours must be completed in 30 days? For basic trainings that take place in 20 hour segments, this would be difficult. The task group felt that to have it go beyond 30 days would mean people would lose what they learned before, making it necessary to re-train them.

- Should really consider increasing the number of hours for basic mediation training, we have all said 40 hours is not enough.
- Maybe the name should be changed to Beginning Mediation Training because that implies this is the start and there is more needed. At the very least there should be clear language somewhere in the document that this is the first step.

Mediator Skills & Strategies (page 5)

- Should this be skills, strategies or techniques?
- What if none of these skills, strategies and/or techniques were included in a class, would it still be basic mediation training?
- Maybe it should read that a wide variety of mediation techniques should be taught. A dictionary was consulted for the definitions of the words skill, strategies and techniques.
- One suggestion "Some mediation techniques which are typically taught include:"

The Evaluation Section (page 8)

- Concern that some trainers may not provide a way for trainees to provide feedback regarding the training
- Trainers could provide written feedback to trainees in a number of ways. Some trainers provide an evaluation sheet for coaches to use during role plays and that could be provided at the end of the training.
- Some felt that it would be costly for trainers to provide a written report to each trainee at the conclusion of the training.

General Question

- Should we be developing best practices based on what is already being done or based on what we really believe to be best practices?

The Training Task Group will take these comments and continue working.

Meeting ended at 4:00 p.m.