




# AGENDA

**November 19, 2020**

1. The Mediation – Communication Strategies
2. Preparing the Agreement
3. Failure to Reach Agreement
4. Preparing for Mock Mediation
5. Module 1: Setting the Scene & Messaging
6. Module 2: Dealing with Party Advisors & Saving the Mediation
7. Mock Mediation Debrief
8. Day Two Q&A

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## CHAT

**Refresh & Reset**

Please turn on your cameras and mics (if able) and let us know one lesson that resonated the most from yesterday's training or one strategy you're looking forward to today.

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# #6

## The Mediation – Communication Strategies

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### Party Proposals

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- Hearing the proposal
  - If unreasonable or will be rejected, discuss ways to modify the proposal.
  - Be subtly evaluative.
- Communicating a proposal
  - Avoid criticism of the proposal unless asked or unless you believe your opinion will not hinder further discussions.

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## Techniques for Keeping the Parties Talking

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- Bracketing issues
- Mediator's proposal
- Time to consider
- Risks of no agreement
  - Future administrative process
  - Less control over outcome
  - Time considerations
  - Emotional considerations
  - Healing

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## Ethical Considerations

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- Conflicts of interest
- Confidentiality
- Pressuring to reach agreement
- Subsequent disclosure of information
- Appearance of impropriety
- Disclosure of background
- Impartiality
- Mental competency of a party
- Autonomy informed consent
- Honesty
- Role boundaries
- Privileged communications

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# #7

## Preparing the Agreement

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### Memorializing the Resolution Agreement

Memorialize the agreed upon resolution in writing signed by both parties.

- Acknowledgment that the parties are entering into the resolution agreement freely, voluntarily, and because each party believes entering into the agreement is in their best interest.
- Acknowledgement that the parties' participation in the Informal Resolution Process was not required, not a product of coercion, nor was it a condition of continued enrollment or employment, or enjoyment of any other right.
- Agreement to waive right to appeal.

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## Preparing the Resolution Agreement

- Provide the agreed terms that may include:
  - Administrative remedies
  - Corrective or punitive measures for respondent
  - Non-disclosure (confidentiality)
  - Non-disparagement clause (essentially no retaliation)
- Consequences for breach of the agreement.
- Institutional record keeping responsibility.
- Institutional obligation to maintain confidentiality, unless permitted by law.

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## Types of Remedies

Types of remedies, include but are not limited to:

- Complainant or respondent relocate their housing.
- Each party is assigned to a different dining hall, workout facility, area of library.
- Complainant/Respondent withdraws from a class that the parties have together.
- Respondent writes an apology letter to Complainant acknowledging harm caused.
- Indefinite mutual no contact order

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## Types of Corrective or Punitive Measures

Types of corrective or punitive measures may include but are not limited to:

- Suspension from extra-curricular activities (athletics, student groups, Greek life, etc.)
- Restriction from campus activities (athletics events, dances, concerts, etc.)
- Enter counseling or other educational programming relating to alleged misconduct.
- Temporary withdrawal from the institution (semester, year, etc.)
- Permanent withdrawal from the institution

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**RESOURCE**

**Template**

Resolution Agreement

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# #8

## Failure to Reach Agreement

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### Failure to Reach Agreement

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- Explain...
  - The inability to reach an agreement does not mean we stop trying.
  
- Methods of continuing dialogue
  - Date certain to resume
  - Follow-up phone conferences
  - Meeting with each party
  - Time to think
  - Time to consult others

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A presentation slide with a background of overlapping grey paper-like shapes. On the left, a dark blue square contains the word "CHAT" in white, bold, sans-serif font, with two white speech bubble icons below it. To the right of this square, a white rectangular box contains the text "Failure to Reach Agreement" in bold black font, followed by "Other ideas?" in a regular black font. A small number "17" is visible in the bottom right corner of the slide.

**CHAT**

**Failure to Reach Agreement**  
*Other ideas?*

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A dark blue presentation slide. In the top right corner, the logo for "ai ACADEMIC IMPRESSIONS" is displayed in white. On the left side, a vertical orange bar is positioned to the left of the large white text "#9". Below "#9", the text "Preparing for the Mock Mediation" is written in white. A small number "18" is visible in the bottom right corner of the slide.


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**#9**

**Preparing for the Mock Mediation**

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**ACTIVITY** 

- **Fact Pattern**
- **Review of the Fundamentals**

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 **Personality & Communication Strengths Review**

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<u>Personality Strengths</u>	<u>Communication Strengths</u>
Tolerant	Characterize but don't criticize
Thoughtful	Clarity
Practical	Emotional control
Collaborative	Simplicity trumps complexity
Respectful	Facts are foundation to persuasion
Empathetic	Eye contact
Intuitive	Relaxed tone
Self-Aware	Avoid negative body language
Creative	Avoid negative verbal reactions
Non-Judgmental	Avoid negative facial expressions
Open-Minded	
Credible	

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## Questioning Techniques Review

### Open-ended questions

- Encourages party to open-up, vent and articulate.
- Allows story to be told.
- Who, what, when, where, why, how, describe, explain, tell...
  - *"Describe what happened after he/she left your room?"*
  - *"Who was with you?"*
  - *"Why did you wait until the next afternoon to call?"*
  - *"Tell me how you felt when you saw him/her earlier?"*

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## Questioning Techniques Review (continued)

### Closed or leading questions.

- Question suggests the answer
  - *"You called the Title IX Coordinator two days later."*
  - *"So, your roommate called him/her to ask if he/she was ok?"*
- Confines response
- Summarizes

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## Questioning Techniques Review – Probing Questions Review

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Probing questions.

- Exploring feelings, opinions, thoughts...
  - *"How would you feel if we are unable to reach an agreement?"*
  - *"What is the best result for you today?"*
  - *"If you couldn't achieve the best result what will you need to feel comfortable about an agreement?"*
- A guide to persuasive discussions with the other party.

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# #10

## Mock Mediation Module I: Setting the Scene & Messaging

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#12

Mock Mediation Debrief and Final Q&A with Faculty

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QUESTIONS?

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This slide has a light gray background with a pattern of faint, overlapping question marks. In the center, there is a dark blue rectangular box containing the word 'QUESTIONS?' in a large, white, bold, sans-serif font. At the bottom center, the logo for 'ai ACADEMIC IMPRESSIONS' is displayed. In the bottom right corner, the number '28' is visible.

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# ***Thank you!***

Please remember to complete the *event evaluation*.  
Your comments will help us continually improve the  
quality of our programs.

*Please look in the Chat for the event evaluation link.*