

# **Why Do You Mediate the Way You Do?**

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# **Why Do You Mediate The Way You Do?**

- **Why do you mediate the way you do?**
- **Probably most people who mediate regularly think they know.**
- **Today's program is going to see if you learn anything about your mediation approach.**

# Today's Agenda

- I'm going to lead you through an exercise asking you about yourself, the kinds of cases you handle, and your mediation procedures.
- After you answer these questions for yourself, we will break into small discussion groups.
- Then we will reconvene to discuss what you learned.

# Going Back to School

- I will ask you a series of questions.
- Write your answers.
- Jot bullet points, not full sentences.
- Look up when ready for next question.
- At the end, we will discuss what you learned from this exercise.

# Main Topics

- **Your contributions to your mediations**
- **Participants and types of cases you mediate**
- **Your mediation practice system design**
- **Your reflections on your system**

# **Your Mediation Practice System**

- **If you mediate regularly, you have a “mediation system”**
  - **Actions before, during, and after mediation sessions**
  - **Partially conscious and unconscious**
- **Factors affecting your system**
  - **Your history, values, motivations, knowledge, skills**
  - **Categories of cases, parties, and behavior patterns**
- **Design of your system**
  - **Routine procedures**
  - **Strategies for dealing with recurring challenges**

# **Your Contributions**

- **What factors in your history, education, training, or experience led you to be a mediator?**

**Examples:**

- **Family, teachers, role models, events**
- **What personal values and goals affect the way you mediate?**
  - **Respect, caring, communication, helping**
- **What benefits do you get out of mediation?**
  - **Satisfaction, respect, reputation, connection**

# **Your Cases and Participants**

- **What kinds of cases do you mediate most often?**
- **Who are parties in your cases?**
- **How often, if at all, do lawyers participate?**
- **What are common patterns of conflict between parties? (eg, prior relationships, unsuccessful negotiation, barriers to agreement)**
- **What are common patterns of parties' interests and positions?**
- **What external factors affect your mediations? (eg, market, practice culture, org. policies, ethical rules)**



# **Your Mediation System Design**

- **How do you prepare yourself for mediations?**
- **How do you prepare parties and/or attorneys?**
- **What are your routine procedures?**
- **What are common challenging problems?**
- **What are your strategies for dealing with these problems?**

# **Your Practice of Reflection**

- **How has your mediation system evolved since you started?**
- **Do you regularly consider what you learn from mediations?**
- **Are you a member of a reflective practice group?**

# **Your Insights**

- **What are most important factors affecting how you mediate?**
- **What did you learn from this exercise?**
- **How can you improve your mediation techniques?**
- **Would it be worthwhile to work more on your exercise?**

# **Your Homework** (if you want)

- Read *Ten Real Mediation Systems*
- Write description of your mediation system
  - No paper to submit or test to take
  - No grades
- Think more about how you work and how you might improve your practice system
- Join a reflective practice group

# Resources

- Real Practice Systems Project Series of blog posts
- *Real Mediation Systems to Help Parties and Mediators Achieve Their Goals*
- *Ten Real Mediation Systems*
- *How Can Courts – Practically for Free – Help Parties Prepare for Mediation Sessions?*
- *Takeaways From “How Can Courts – Practically for Free – Help Parties Prepare for Mediation Sessions?”*