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Standard I. Self-Determination

Standard I comes from the Model Standards of Conduct for Mediators, accepted in 2005 by the ABA, AAA, and the Association for Conflict Resolution (ACR). At its simplest, self-determination embraces the right of the parties in mediation to voluntarily come to their own decision about how to end a conflict. This right carries with it the ability of the parties to terminate the mediation process without an agreement if they choose to do so. Self-determination is the foundation of mediation regardless of whether mediation is voluntary or court imposed. Therefore, when this standard is disregarded by the mediator through advice giving, counseling, or other coercive behaviors, the process becomes something other than mediation.

Advice giving is a natural human behavior, and when parties get stuck it is so easy (perhaps tempting) for the mediator to say, “Maybe you could.... Have you considered... What if you....” Sometimes parties in a mediation will ask, “What would you do?” As much as we may know exactly what the parties should do, it’s not our place to tell them. If parties continue to press for a solution from the mediator, you might explain why it’s not a good idea, or you can say, “I don’t know because I have never been in your situation.” Even if you have been in a similar situation, your solution is not guaranteed to work for someone else.

There are also more subtle forms of advice giving such as the mediator giving more attention to one party’s proposal over another. The simple fact is that mediators who offer advice do so at the detriment of the parties. The mediator’s role is to empower the parties to come up with their own solution so buy-in is high, and in the case of an ongoing relationship, so the parties know they are capable of working through a conflict.

Dr. Tammy Lenski (2014) wrote in her book, *Giving Advice is a Problem-solving Crutch*, “It would be arrogant of me to assume I understand the complexities of their lives and minds sufficiently well to know that my advice is what’s best for them. They know themselves far better than I ever will.” The mediator who presses for a solution could easily miss the real problem. In other words, it may not be so much about the money, a rather easy solution, as it is about an apology or some other form of acknowledgement that will truly end the conflict.

If you find the parties stuck, and you are tempted to give just a little advice because the solution is so obvious to you, then you need to ask the parties more questions and give them time to find their own best solution. Self-determination should be talked about in the mediator opening statement so everyone clearly understands the mediator’s role and the parties’ responsibility for finding the solution.



***Mediation
And Conflict
Resolution
Training***

A collaboration
between the
Neighborhood
Mediation
Center and UNR
Extended
Studies Program

A special thanks to the
NMC volunteers who
attended the training
as mentors and panel
members:

- Lance Allen
- Patty Herzog
- Gwen Hullman
- Nancy Dyer
- Dave Randolph
- Ken Jordan
- Val Cotta
- Sandra Delehanty
- Lynn Thompson

THANK YOU!

The next Beginning
Mediation class is scheduled
for April 17-April 23, 2016
at the UNR Redfield
Campus

Mediation Class of 2015



Congratulations to Training Participants: YeVonne Allen, Rachel Cooper, Ellen Crawford, Kathy DiCenso, Nancy Haug, Nancy Jackson, Karla Kwist, Donna Munson, Stephanie Neill, Jayne O’Flanagan, Sylvia Ontaneda-Bernales, Anella Pennola, Marjorie Randall, Elizabeth Root, Kate Sassoon, Stephanie Sinks, Catherine Czadek Smokey, Jessica Strong, Andrea Umana, Jeff Wahl, and Ann Wilson.

Trainers Claudia Wahl and Monica Kales of the Neighborhood Mediation Center presented a 40 hour Beginning Mediation class in April. The class was offered in collaboration with UNR Extended Studies. Twenty-one attendees participated in a rigorous, interactive curriculum. Participants came from Nevada, California, and Arizona with backgrounds to include HR, social work, education, psychology and legal advocacy.

Participant Comments:

“Learning about the Mediation process from such excellent trainers. The trainers were so well-trained and well versed, kept to the agenda, offered constructive feedback, and were very supportive of the learning process. They assigned relevant homework and the role plays really helped grasp the concepts.”

“As much as I dreaded the role-play activities they were extremely valuable and the instructors made it feel nonthreatening. We were allowed to build our skills as the exercises went on. I really feel like I got useful tools in this class, more so than other shorter workshops I've taken.”

For more information about trainings call the Neighborhood Mediation Center at 775-788-2127 and visit www.mediatenmc.org.

NMC Volunteer Profile

Nancy Dyer

NMC Mediator & Court Coordinator

Nancy Dyer is a retired educator who had a variety of experiences within a high school setting: she mainly taught English during her 24-year experience at Taft Union High School (TUHS) in Taft, CA, with classes of computer graphics and journalism also thrown into the mix. The majority of her teaching experience was in a traditional class setting, with the last 12 years specifically designated to the Taft Oil-Technology Academy at TUHS. The Academy offered Nancy many experiences to travel and make presentations at state and national conferences during her tenure.

Peer Mediation at TUHS was Nancy's first introduction into the mediation process and she saw benefits to both students and the school using this process: Nancy and one other teacher were the designated school trainers for both staff and students for Peer Mediation. After having a successful mediation program at TUHS for four (4) years, Nancy took on new responsibilities at the high school: mainly involving English Department Chair and the Academy, but she remained as one of the staff members overseeing the mediation process. Although the mediation program started to wane with a change in school administration and staff, Nancy looked to further her understanding of mediation outside of the school setting. She attended a week-long training at the Institute for Conflict Management in Santa Monica, CA. the summer of 2006. Thankfully, when Nancy retired she continued to think about mediation and discovered the Neighborhood Mediation Center: she first began by volunteering in the office and then slowly worked into mediating. At the present time, Nancy is one of two Court Coordinators in the Reno Justice Court. Mediating is particularly interesting to Nancy because the process is less intimidating to participants and allows them the opportunity to discuss issues, verbalize some of their emotions, and decide to take a less-adversarial approach to their problem. It doesn't work for everyone, but it does for many.



"Mediation allows people an opportunity to discuss an issue and hopefully move on with their lives. "



2015 ACR Conference in Reno

With over 75 exciting sessions, 120 expert speakers, numerous special events, and hundreds of colleagues, this is ADR's "Must Attend" event this Fall!

Early Bird Registration
July 15 deadline

<http://reno.acrnet.org/>

From the Program Director's Corner.....



The Reno Justice Court (RJC) Small Claims Mandatory Mediation Pilot program is in full swing!

Mandatory mediation began on March 3rd and is conducted Tuesdays and Wednesdays from 11:30am until approximately 1:30pm. Each day is staffed with one NMC volunteer coordinator/mediator and at least two volunteer mediators. NMC staff is on call as needed. All contested cases (cases where both sides to the action are present) are mediated. There have been a few days with no contested cases and a few days with 6 or more with most days falling somewhere in between.

The response from plaintiffs and defendants to the new program has been varied but overall positive. Parties frequently question the new protocol during the opening presentation given by the coordinator, curious about, and yes, even resistant to the program. Parties also ask if they "have to do this." The coordinators and court clerks are adept at explaining that this is the new standard and ask parties to enter into mediation with an open mind and in good faith. There is no requirement to come to an agreement in the mediation but, many parties have found that mediation can have surprisingly satisfying resolutions. The opportunity to share perspectives in a respectful atmosphere, to feel heard and have the opportunity to employ self-determination in one's own outcome can be quite empowering.

Following are some survey comments from parties who have been through the process: "quickly done, more personal"; "time saving and having an unbiased person who kept us on track"; "both parties can explain their positions"; "clarifying ... more personal"; "open communication between parties"; "more versatile"; "ability to get to a resolution"; "... agreement without too hard feelings"; "ability to avoid court." Based on the surveys, parties are overall "completely satisfied" with the process.

Although early in the program, not surprisingly, the average rate of agreement that NMC has experienced over many years has declined to some degree. For many years, NMC's agreement rate during the voluntary program held steady near the national average of approximately 70%. The national rate is somewhat less in mandated programs. The agreement rate in the new RJC program in the first three months, March through May, is 58%, based on 73 mediations. This number of mediations is on average over twice as many as were conducted in the voluntary setting! NMC can't **thank our coordinators and mediators** enough. This program would not be possible without our dedicated group of trained and experienced volunteers!



As a recipient of the 2015 IT Makeover Award, the NMC Board, Staff, and Volunteer Mediators would like to thank Microsoft and IQ Technology Solutions for offering nonprofit organizations the opportunity to acquire upgrades to technology. This award will allow NMC to upgrade computer hardware and software capabilities in order to meet demands in increases in case load and case management. Technology upgrades will enhance internal and external communication and safeguard sensitive information. Thank you for your support and investment in our community.

Peace of Mind by Patty Herzog

The idea for this column developed from an interest in improving mediator skills and knowledge. We have a local community of professional mediators that is as diverse as the cases we mediate. With that diversity of knowledge as a cornerstone, the purpose of this column is to provide a space to share our experiences and learn from each other. Hopefully, this column provides some Peace of Mind, inspiration, encouragement, and enriches our shared understanding so that we may better serve our community through mediation.

A highly skilled mediator shared an experience mediating a case and said, "...I know I was not the right mediator for the job that day." The comment took me by surprise. My first reaction was one of respect and gratitude. It takes an incredible amount of self-awareness to recognize that you may feel as if you are not the "right" person for the job that day and how that can impact the process of a mediation. While it is one thing to have the skill to recognize your personal biases, it goes to a whole other level to have the courage to be vulnerable to share that with others. It was an incredible opportunity to learn from this individual. As a new mediator, it seems as if I have felt like not the "right" mediator more often than not! My second reaction was a flash from the past. In a former career working as a meeting facilitator, I remembered receiving an email from a colleague with the following comment under the signature line:

- Whoever comes is (sic) the right people.
- Whatever happens is the only thing that could have.
- Whenever it starts is the right time.
- When it is over it is over.

In the moment, I could not remember more than the first principle but a Google search lead to the complete list and source. These are the four principles of Open Space (Technology) developed by Harrison Owen. It may sound like a new computer operating system, but Open Space (Technology) is a leadership approach and simple way to run productive meetings. These principles have stuck with me over the years and helped me feel less burdened in facilitating meetings. Knowing that whoever shows up to mediate are the "right" people, including the mediator, has allowed me to feel a bit more comfortable mediating. Instead of not feeling like the "right" person, this principle gives me peace of mind to know that showing up makes you the "right" person for that mediation in that moment.

If you are interested in more information on Open Space (Technology) and these principles here are some websites:

The Practice of Peace <http://openspaceworld.com/final%20pop%20hdsi.pdf>

Harrison Owen Copyright © 2004 Harrison Owen. Published by Human Systems Dynamics Institute.

<http://www.openspaceworld.com/index.htm>

<http://openspaceworld.org/wp2/>

Patty Herzog has a Bachelor's of Applied Science in Management in Technology from the University of Nevada, Great Basin College and a Certificate in Mediation and Conflict Resolution from the University of Nevada, Reno. Since 2006, she has been the owner of Global Coffee in Winnemucca, Nevada. A strong advocate of public service, she served as city councilman for the City of Winnemucca for 13 years. She serves on the board of the United States Forest Service – Santa Rosa District Advisory Commission and the executive board of the Nevada Dispute Resolution Coalition. She has served as Vice Chairman of the Bureau of Land Management Resource Advisory Commission from 2004 to 2010. During her career at Newmont Mining Corporation, she managed complex community and government relations challenges as a Senior Community Relations Representative. In her free time she enjoys hiking with her golden retriever, Boo.



NMC is primarily funded by Washoe County from court filing fees, and the NMC Training Program