

Shared Neutrals Program Guide

Chapter 4 – Neutrals

updated 12/29/2004

Neutrals bring different ADR styles and techniques to the Program

The neutrals shared through this Program are employees and volunteers from participating agencies. They bring diverse professional and cultural backgrounds to the Program. Collectively, they possess a broad range of technical expertise and different ADR styles. This wealth of training and experience is one of the greatest assets of the Program.

This exchange supports the professional development of agency neutrals through mentoring. The Program's use of the co-mediation model is designed in part to provide opportunities for more experienced neutrals to work with less-experienced neutrals for their mutual benefit.

Neutral Roles

Primary Mediator	<ul style="list-style-type: none">• Meets minimum requirements and has extensive mediation experience and is highly recommended by their references• Assumes primary responsibility for cases• Selects co-mediator based on needs of case (may occasionally work solo when needed)• Assures thorough case development and communication with Agency Liaison• Assures coordination of arrangements for mediation sessions (<i>per protocol & procedures, chapter 6</i>)• Assures prompt return of case documentation to the Program Coordinator (including party evaluations, mediator critiques and mediator checklist).• May serve as mentor to other mediators through the Mentor Program
Co-Mediator	<ul style="list-style-type: none">• Meets minimum requirements• Is responsible for handing in documentation of their own hours, mediator critiques and travel reimbursements.• May request moving to Primary Status (<i>see Administrative Procedures, chapter 6</i>).
Mentored Co-Mediator	<ul style="list-style-type: none">• Meets all minimum requirements <u>except</u> does not have sufficient workplace mediation experience• MUST work with designated mentor* to get experience and exposure (i.e., observations, practice sessions, etc.)

	<ul style="list-style-type: none"> • Must notify Personnel Standing Committee when s/he and their mentor feel s/he is ready to become a Co-Mediator.
Inactive	<ul style="list-style-type: none"> • A mediator may take a leave of absence. • To return from inactive status, the mediator must notify their Agency Liaison who, with the Personnel Standing Committee, will determine his/her readiness to return as an active mediator
<p>* A Mentored Co-Mediator must work with a mentor, but <u>any</u> category of mediator can request a mentor. <i>See: Mentor Program later in this chapter.</i></p>	

ALL categories of Shared Neutrals mediators are responsible for:

- A mutual debriefing of the mediation team, using the Mediator Debrief Form, after each mediated session (*see Mediator Debrief – Chapter 6*).
- Fulfilling Professional Development expectations and submitting completed *Training & Activity Log (Chapter 6)* to the Personnel Standing Committee after each calendar year.

Selection Process

Applicants from a variety of professional backgrounds who use diverse ADR techniques are encouraged to apply.

To apply, applicants must meet minimum requirements and submit an application (*see Neutral Profile* in chapter 6) detailing their training, experience, preferred style, methods of dispute resolution and three references to the Personnel Standing Committee or Program Coordinator.

Minimum Requirements

Policy 4.01 -Mediator Applicant Minimum Requirements (6/00)

New applicants to the Shared Neutrals roster must meet the following requirements:

- ◆ Must be an employee or trained volunteer of a member agency;
- ◆ Must have completed 40 hours of basic mediation training;
- ◆ Must have some previous experience as a mediator or facilitator;
- ◆ Must agree to pursue 15 hours of Professional Development annually;
- ◆ Must agree to mediate a minimum of 3 workplace disputes per year (2 of which must be for Shared Neutrals), or to mediate a minimum of 15 hours per year (10 hours of which must be for Shared Neutrals); and
- ◆ Must agree to adhere to the Oregon Mediation Association’s Core Standards of Mediation Practice, adopted September 9, 2000.

After being interviewed by the Personnel Standing Committee, references will be checked, and applicants may be asked to perform a mock mediation to assess skills and style. If accepted, they are assigned to the appropriate category (Primary, Co-mediator or Trainee). If assigned directly to the Primary category, they must mediate their first case with another Shared Neutrals Primary Mediator.

Once accepted, mediators sign a contract (*See Mediator Contract in ch. 6-Forms*) outlining the Program's standards of practice, and are oriented by the Program Coordinator (or other Personnel Standing Committee representative).

The Program Coordinator maintains a mediator roster, along with a profile/biography sheet for each mediator, and assigns cases based on case needs. Neutrals are not generally assigned to cases in their own agencies, unless requested by both parties to a dispute. (Note: as of 2003, this subject is under review by the Subcommittee.)

Standards of Practice

Neutrals agree to adhere to the Oregon Mediation Association's Standards of Mediation Practice, adopted September 9, 2000. For further discussion of these standards, see

<http://www.omediate.org/Standards>

Mediators' Ethical Standards

I. Self Determination

A mediator shall respect and encourage the self-determination of participants in decisions regarding what process to use and regarding whether, and on what terms, to resolve their dispute or issues.

II. Informed Consent

A. The mediator shall provide mediation services only when the participants have given their informed consent to participate in the specific mediation process offered by the mediator.

B. The mediator shall disclose to the participants all information about the mediator and his/her services necessary to enable the participants to make an informed decision whether to use or continue the services of the mediator and whether to participate in the specific mediation process. The mediator shall explain the mediation process and the roles of the mediator, the participants, and their representatives. The mediator shall also disclose information regarding conflicts of interest, relationships, confidentiality and fees as specified in these Standards.

C. The mediator shall make reasonable efforts throughout the mediation to assure that the participants are free and able to make choices regarding participation in mediation generally and regarding options for reaching agreement.

III. Impartial Regard

The mediator shall demonstrate and maintain a commitment to impartial regard by serving all participants at all times. The mediator shall not have any personal stake in the outcome of the mediation. Where the mediator's ability to give impartial regard is in question and that question cannot be resolved s/he shall decline to serve or shall withdraw from serving as mediator.

IV. Confidentiality

A mediator shall maintain the reasonable expectations of the participants with regard to confidentiality, except where confidentiality or disclosure is required by law

V. Competence

A. A mediator shall mediate only when s/he has the necessary knowledge, skills, and abilities to satisfy the reasonable expectations of the participants.

B. The mediator shall exercise his/her judgment and discretion as to whether s/he is competent to mediate a particular dispute. When the mediator believes that s/he lacks the knowledge, skills and ability to mediate a particular dispute, s/he shall request appropriate assistance, withdraw or decline to serve.

VI. Encourage Good Faith Participation

The mediator shall encourage participants to participate in good faith. The mediator shall discontinue the mediation if, in his/her reasonable judgment, a participant's bad faith, dishonesty, or nondisclosure is so significant that the fairness and integrity of mediation cannot be maintained.

VII. Fees

A. The mediator shall fully disclose and explain the basis of any compensation, fees, and charges to the participants.

B. A mediator shall not charge contingent fees or base fees on the outcome of a mediation.

C. A mediator shall not accept a fee for referral of a matter to another mediator or to any other person.

Professional Development

Expectations of Professional Development

Mediators must maintain minimum levels of participation and professional development to be considered 'active' mediators in the Program. The general expectation is that they will pursue 15 hours of continued

professional development annually. They must submit the Training & Activity Log at the end of each calendar year. (*see Training & Activity Log, ch. 6*).

This allows the Program to track mediators' development and involvement level, as well as giving mediators the chance to renew their commitment to the Program annually.

Shared Neutrals will provide periodic training opportunities to assist in this development.

Mediator Competence

Neutrals bring different ADR styles and techniques to the Program. Occasionally, this may lead to differences in opinion between mediators. To assist in this, mediators debrief with each other after each mediation (*see Mediator Debrief Form in Program Forms*). If inter-mediator concerns persist, the Personnel Committee is authorized to address them. (*see Procedure 4.0, ch. 6*.)

Mentor Program

Established in 2002 by the Training Standing Committee, the Mentor Program is a partnership convened for the purpose of enhancing learning, for any category of mediator. A mentor may be requested at any time, by any category of mediator (Primary, Co-Mediator, Trainee, or returning from Inactive status). The role of the mentor mediator is to actively assist the requesting mediator to achieve general or specific learning goals, and to develop his or her own unique potential as a mediator. Information about the Mentor Program is available on our web site, or through the Training Standing Committee.

Mediators interested in becoming a Mentor should fill out a Mentor Profile (*ch. 6*), and return it to a member of the Training Standing Committee.

The Personnel and Training Standing Committees work jointly to identify possible Mentors for Mentees.

Administrative procedures for establishing mentoring relationships can be found in Chapter 6, under *Procedure 7.00-Administrative Protocol for matching Mentors & Trainees*.

Protocol for Mentored Co-Mediators

Procedure 7.01 – Protocol for All Mentored Co-Mediators (updated 12/17/04)

- The Mentored Co-mediator (Mentee) should observe at least one case with any Shared Neutrals mediation team;
- The Mentor debriefs with the Trainee about their observation experiences and sets individual learning goals;
- The Mentee should mediate at least one case (as co-mediator) with their Mentor. They might mediate with a different Primary Mediator, with the approval of the both the Mentor and the Primary in question;
- It is up to the mentor- mentee team to ascertain when the Mentee is ready to move to 'Co-mediator' on the Mediator Roster, and when they can mediate without their Mentor's approval;
- The Mentor must inform the Program Coordinator, via e-mail or letter, that the Mentee's status should be changed to 'Co-Mediator' on the roster.

Promoting Co-Mediators to Primary Mediator Status

Co-mediators who feel experienced enough to apply to the Primary roster must follow procedures outlined in *Procedure 4.02 (Chapter 6)*.

Mediation by the Program Coordinator

The Program Coordinator is hired by and reports to the Shared Neutrals Subcommittee. If s/he chooses, the Program Manager may apply to the Mediator Roster. Responsibilities and limitations of mediation by the Program Coordinator are outlined in Policy 4.04 (*Chapter 6*).

Observers in Mediation

All people connected with Shared Neutrals will be permitted to observe when appropriate, including Subcommittee members, liaisons, the program coordinator, mediators and mediator-applicants with an application on file. The primary mediator will determine if observers are appropriate. A maximum of two persons can observe, and observers cannot observe mediations with their own agency. (6/00) (*see full Policy/ Procedure 6.05 (Chapter 6)*).