

EQUITY & TITLE IX

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# MEDIATION TRAINING

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BERKLEE COMMUNITY STANDARDS & CONFLICT RESOLUTION

# AGENDA

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## TOPICS:

- Introductions
- Overview of CS&CR
- Group Agreements
- Intro to Mediation
- Mediator's Role
- Effective  
Communication
- The Mediation Process
- Role-Plays

# CS & CR

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- Hold students accountable to the Student Code of Community Standards
- Provide opportunities for conflict management and mediation between students/community members
- Facilitate educational opportunities to further student learning and growth.
- Work collaboratively with Equity and Title IX



## **GROUP NORMS**

**What can we all agree to do today  
to create an environment that is  
supportive of each other's  
learning and development?**

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# WHAT IS MEDIATION?

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Mediation is an informal resolution process in which a neutral third party helps two or more parties identify and discuss issues in order to reach a mutual resolution.



# PRINCIPLES OF MEDIATION

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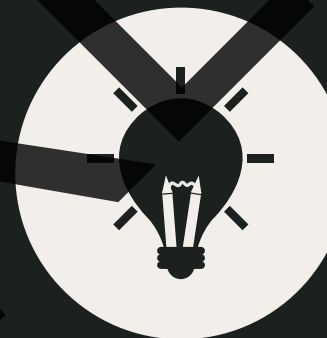
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Mediations are **VOLUNTARY**. Parties are not compelled to participate and they may withdraw at any time.



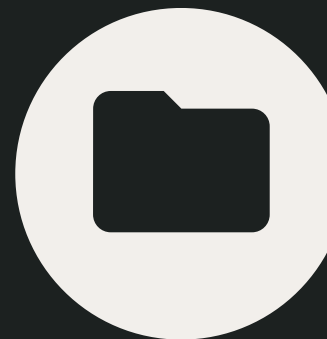
**INFORMED CONSENT.** Parties have a right to information about the mediation process, and other options.



**SELF DETERMINATION.** Parties have a right to identify their own issues, needs, and solutions. The resolution is not dictated by the mediator.



**IMPARTIALITY/NEUTRALITY.** All parties should be treated fairly by a neutral, unbiased mediator.



**CONFIDENTIALITY.** Records from a mediation should be handled with care and in accordance with policies.

## FACILITATIVE MEDIATION

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- Mediators strive to increase mutual understanding of parties, including their needs, interests, and feelings.
- Avoid offering solutions; rather, they try to elicit feedback and ideas from the parties involved.
- Mediators tend to come from wide variety of backgrounds and have expertise in the mediation process as a whole.

## EVALUATIVE MEDIATION

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- Mediators more focused on efficiency and understanding the facts and issues in order to reach an agreement.
- Mediators offer specific solutions in order to reach an agreement.
- Mediators tend to be subject matter experts on the conflict issue. May be attorneys or judges.

# TO CO-MEDIATE OR NOT? THAT IS THE QUESTION...

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DISCUSSION: WHAT ARE THE BENEFITS OF  
CONDUCTING A MEDIATION WITH 2 MEDIATORS?  
WHAT ARE THE CONS?



# PROS AND CONS OF CO-MEDIATION

## PROS:

- Teamwork & Support
  - Filling in gaps if other needs help
- Feedback
  - Practice provides opportunity for improvement
- Comfort
  - Dealing with challenging parties or complex conflicts

## CONS:

- Time
  - May take longer
- Perception
  - Two mediators vs. one party
  - Taking sides
- Different styles between mediators
  - Potential for conflict between mediators!

## TIPS FOR MAKING CO-MEDIATION WORK:

- PREPARE BEFORE THE MEDIATION - WHO IS GOING TO LEAD EACH PART?
- COMMUNICATE WITH EACH OTHER
- USE MEDIATOR BREAKS WHEN NEEDED
- DEBRIEF AND GIVE FEEDBACK
- ACKNOWLEDGE EACH OTHER'S STRENGTHS

# Dept. of Education Title IX Regs - Informal Resolution

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- Allows for informal resolution, such as mediation, as long as both parties give voluntary, informed, written consent to participate and a formal complaint has been filed.
- Party has the right to withdraw from informal resolution and resume the grievance process to address the complaint
- Schools must not offer informal resolution as an option to resolve allegations that an employee sexually harassed a student.

## TYPES OF TIX & EQUITY CASES POTENTIALLY SUITABLE FOR MEDIATION:

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- SEXUAL HARASSMENT
- LOWER-LEVEL MISCOMMUNICATION ISSUES AROUND CONSENT
- RETALIATION CASES
- CLASSROOM CONFLICTS

\*THE TITLE IX COORDINATOR MUST DEEM THE CASE TO BE APPROPRIATE FOR MEDIATION/INFORMAL RESOLUTION

## TYPES OF CASES NOT SUITABLE FOR MEDIATION:

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- PHYSICAL OR THREATENED VIOLENCE
- DANGEROUS PATTERN OF CONDUCT
- POWER DIFFERENTIALS
  - FOR EQUITY CASES, THEY MAY MOVE FORWARD AS LONG AS ALL PARTIES AGREE



# MEDIATOR SKILLS

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## MANAGING THE PROCESS

Clarity, tone, flexibility, timing

## MANAGING INTERACTIONS

Neutrality, respect, composure, non-judgmental, cooperative, patient, persistent

## MANAGING INFORMATION

Questioning, Reframing, Summarizing, Encouragement

# POSITIONS VS. INTERESTS

**POSITIONS: WHAT PEOPLE SAY THEY  
WANT**

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**INTERESTS: THE UNDERLYING UNMET NEEDS AND  
VALUES THAT EXPLAIN WHY THEY WANT IT**

# Active Listening

Open-Ended  
Questions

Reflect and Validate





# Mediator Responses

## REFLECTING

"What you seem to be saying is..."  
"You're feeling..."

## SUMMARIZING

"So what you all want to talk about today is..."  
"There are a number of things you are still disagreeing on, including..."

## QUESTIONING

"What did you mean by...?"  
"Anything more you would like to say about that?"

## CHECKING IN

"So where do you think the discussion should go at this point?"

# QUESTIONING

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## WHAT TO ASK

- Explore the Conflict
  - What happened?
- What are the issues?
  - What do they want to work on?
- Inquire about solutions
  - Ask how they think this can be resolved
- Ask about options/compromise
  - What does the other side want or need?

## HOW TO ASK

- Use open-ended questions
- Be non-accusatory in tone
  - “Help me understand...”
- Use empowering questions
  - “What’s most important for you?”
- Use Problem-solving questions
  - Test reality
  - “What if there is no agreement?”

# Reframing

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- Occurs when you state back to the speaker what you believe they have just expressed, but in a manner that shifts the conversation in a more productive direction. A good reframe typically captures both the substance and emotional tone of what the speaker has said,
- Be mindful of using neutral language.
- Example:
  - “She’s a selfish brat” to “You would appreciate help from her”
- ***Reframing Activity***



# THE MEDIATION PROCESS

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# THE MEDIATION PROCESS

PRE-MEDIATION  
MEETINGS

INTRODUCTION

JOINT  
SESSIONS

PRIVATE  
MEDIATOR  
MEETING

INDIVIDUAL  
SESSIONS

FINAL JOINT  
SESSION/  
WRITTEN  
AGREEMENT

# Considerations

## PRE-MEDIATION MEETINGS

- Reviewing the request
- Agreement to Participate from both parties
- Setting expectations for mediation in advance
- Advisors
- Scheduling and Time Commitment
- Where will it take place?
  - In person vs. virtual
- Co-Mediator Prep

## INTRODUCTION TO MEDIATION SESSION

- Welcoming tone
- Introductions
- Reviewing Script
- Housekeeping items

## JOINT SESSIONS

- Ask parties to share why they are here today
  - Start with complainant
- Summarize after each person to ensure accurate understanding of issues
- Ask open-ended questions
- Look for underlying concerns



# Considerations

## PRIVATE MEDIATOR MEETINGS

- Debrief with co-mediator:
  - What do you know about the conflict?
  - Who should you talk to privately first?
  - What do you want to ask?
  - Anticipate difficulties
- May utilize mediator's breaks more than once, but be mindful of this. Use them intentionally and sparingly.

## INDIVIDUAL SESSIONS

- Advise party that individual meeting is private
  - You will not share anything unless they would like you to
- Ask if there's anything else they would like to add
- Listen, demonstrate empathy
- Focus on what the party is communicating regarding their underlying needs
- Summarize
- Engage in reality testing
- More individual sessions may be needed for complex cases

## FINAL JOINT SESSION/WRITTEN AGREEMENT

- Encourage sharing of information
- Summarize points of agreement
- Prepare to write up agreement
  - Be specific
  - Include all details
  - Review with parties
- Have them sign agreement
- Thank them for their time
- What happens if agreement not adhered to?
- OR...
  - There's NO agreement
  - What next?



# ROLE PLAYS

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## MEDIATORS:

- YOU ARE NOT OBLIGATED TO CONCLUDE A ROLE-PLAY (OR A REAL MEDIATION) WITH AN AGREEMENT. TRY TO UNDERSTAND AND ADDRESS THE PARTIES' INTERESTS.
- PAY ATTENTION TO THE TIME. TIME WILL BE COMPRESSED IN THE ROLE PLAY.
- BE YOURSELF. REMEMBER WHAT YOU LEARNED TODAY, BUT DON'T LOSE YOUR AUTHENTICITY IN THE PROCESS.
- BE OPEN TO FEEDBACK. WE ARE ALL HERE TO LEARN AND PRACTICE.





# ROLE PLAYS

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## PARTIES:

- TRY TO BE REAL. HAVE FUN! BE AN ACTOR! THINK ABOUT YOUR ROLE AND WHAT THE EMOTIONS AND INTERESTS OF THE PARTY ARE.
- DON'T FEEL THE NEED TO SHARE EVERYTHING ABOUT YOUR ROLE RIGHT AWAY. LET THE MEDIATORS DRAW OUT SOME OF THE INFORMATION AND FEELINGS.
- BE MINDFUL OF TIME - BUT DON'T MAKE THE EXERCISE OVERLY EASY FOR THE MEDIATOR BY AGREEING TO EVERYTHING IMMEDIATELY, OR CONVERSELY - MAKING IT EXTREMELY DIFFICULT TO MAKE ANY PROGRESS WITHIN THE ROLE PLAY.



BERKYLEE

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**Questions?**  
**Thank you!**