Final Report
August 1, 2021

Subcommittee on Experiential Training:
Clinics, Simulations, and Video Feedback

Experiential Training: Clinics, Simulations & Video Feedback
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This report focuses on questions and issues considered by the committee, valuable
resources, and committee recommendations for moving forward.

1. Questions and issues considered by the committee.

A. Broadening Our Focus Beyond Mediation.
It is important to broaden the scope of inquiry beyond mediation to integrated
dispute resolution processes: We appreciate the focus on mediation as the core
ADR process for the task force. We also see strong opportunity and need to focus on
a spectrum of ADR processes where issues of experiential training are equally
germane. We believe that our discussions of experiential training should answer the
following questions:

- What is the current state of the field in terms of the types of interventions for
  which experiential training is most needed and valued (e.g., mediation,
  arbitration, conflict coaching, facilitation, etc.)?
- Should we be concentrating our energies on processes like arbitration or
  conflict coaching where we generally know less about the role of experiential
  learning?
- What do we know about what experiential learning is being used where?
- How does this help us build capacity for ADR processes by thoughtful
  development of excellent experiential learning?
- When thinking about disputes where more than one ADR process is used,
  what should we understand about how experiential training in one process
  affects experiential training in another?

We assume that the use of multiple dispute processes and the degree of their
integration changes the need for and value of experiential training from a within-
training to a between-training orientation. How does good experiential training for
one process build on good previous experiential training? What helps create a
cumulative effect? Understanding the benefits of experiential training in integrated
interventions will likely provide insights to refine optimal experiential learning for a
single intervention, like mediation.

B. Mapping KSA Learning.
Identify key experiential training components to align with desired Knowledge,
Skills and Attitude (KSA) Learning Development: Our field will benefit from
mapping components of experiential training to specific KSAs. The discussion of key
skills and the overlay of articulated standards has been a focus of ADR educators for
years. However, we need to refine our mapping especially with how online
experiential training operates.

- As a field, we have gaps in our understanding of which experiences produce
  learning in terms of critical KSAs (knowledge, skills and attitudes). We
  suggest that we may be operating with past patterns of practice rather than
  proven practice benefits, especially in light of the advent of online learning.
- How confident are we that what we have learned previously still applies? As
  we mention elsewhere, we have far too little research informing us of
  connections between ET and KSAs and almost none that looks at that
  relationship now.
- What evidence is our degree of confidence based on? What do we "know"
  about the best alignment of methods of experiential training and key learning
  outcomes for mediation and for other ADR processes?
- For all of the preceding questions how do the answers change for an online
  experiential training component? How does online learning change the
  nature and number of experiential training options?

We suggest that starting with an analysis of online learning potential without
visiting/revisiting the foundational question of "what are we really wanting people
to learn and why?" is less productive than we need.

C. Learning From Other Fields.
Adult learning theorists, educational psychologists and instructional learning
specialists have provided resources that we can use to our advantage. Health
care (e.g., nursing), social work, education (specifically pre-service and in-service
teacher education) as well as other fields have rich histories of using and
researching experiential training processes. There is a significant expertise in adult
learning that our field is not sufficiently knowledgeable about.

- What are KSAs in other professions that are also critical in dispute
  resolution?
- What can we learn from their research to guide our development of
  experiential learning?
- What are unique KSAs to our field that we need to develop unique
  experiential training for?
- How does an online learning context impact the above?
- What are the most promising online experiential training methods in other
  fields that we can adapt for use in our own?

D. Learning from Contexts and Cultures Within Our Field.

In general, the knowledge available from our field and other fields about efficacy of experiential training in various cultures and in various contexts is quite limited. The global expansion of ADR provides an amazing opportunity for exploration of this question and conducting research on best practices.

E. Experiential Learning Across an ADR Career.
There is a lot of value in thinking of how experiential learning opportunities build on each other across someone's career. Several other committees are also discussing how we learn across our career and how things like mentoring and reflective practice are ongoing and cumulative. We agree and suggest that when and how experiential training takes place in the arc of a person's ADR career matters – although we know little about the specifics of those learning outcomes.

F. Balance Accessibility and Technology.
We should design experiential training to strike a balance between accessibility, technology and use of online experiential training: We seek elegant and parsimonious methods of experiential training that are effective but also accessible and user friendly. Opening our thinking to use of different learning platforms is important. Developing online experiential training that only a small segment of interested participants can (afford to) participate in is a serious issue.

2. Valuable resources identified by the committee.

The following areas of resources are presented here: general resources on online experiential learning, professional associations and centers dedicated to experiential learning, resources on the efficacy and essentiality of experiential learning in ADR, and exemplar mediation certification programs and processes.

- The general resources on online experiential learning include articles that summarize foundational theory about experiential learning and recent research that reports what makes experiential learning effective across contexts. These help us think about the broader field of learning theory and how that can inform our work.
- Existing professional associations, like ATD, are a wealth of resources we can import into our work. Some university centers are leading the way in groundbreaking work.
- As mentioned earlier, there is a real lack of research on ADR and experiential learning. This section of resources provides some excellent summary articles that have reviewed what we have done as a field and what we need to do.
- Our field has developed some strong mediator certification programs at federal, state and community mediation levels. This area provides links to websites of some of the more impressive programs.

A. General Resources on Online Experiential Learning

Beinicke, A., & Kyndt, E. (2020). Evidence-based actions for maximizing training effectiveness in corporate E-learning and classroom training, *Studies in Continuing Education,42*:2, 256-276, DOI: 10.1080/0158037X.2019.1608940

Hyochang Lim, H., Lee, S-G., & Nam, K. (2007). Validating E-learning factors affecting training effectiveness. *International Journal of Information Management, 27*(1), 22-35. https://doi.org/10.1016/j.ijinfomgt.2006.08.002.
https://www.sciencedirect.com/science/article/pii/S0268401206001095

Kim, S., Park, C., & O'Rourke, J. (2017). Effectiveness of online simulation training: Measuring faculty knowledge, perceptions, and intention to adopt. Nurse Education Today, 51, 102-107. https://doi.org/10.1016/j.nedt.2016.12.022.
https://www.sciencedirect.com/science/article/pii/S0260691716303288

Kolb's Learning Styles and Experiential Learning Cycle/ Simply Psychology
https://www.simplypsychology.org/cognitive.html

Online Experiential Learning – Center for Integrative and Experiential Learning / University of South Carolina
https://sc.edu/about/initiatives/center_for_integrative_experiential_learning/

Sitzmann, T., & Weinhardt, J. M. (2019). Approaching evaluation from a multilevel perspective: A comprehensive analysis of the indicators of training effectiveness. Human Resource Management Review, 29(2), 253-269.
https://doi.org/10.1016/j.hrmr.2017.04.001.
https://www.sciencedirect.com/science/article/pii/S1053482217300268.

Stirline, A. E. (2013). Applying Kolb's Theory of Experiential Learning to Coach Education, Journal of Coaching Education, 6(2), 104-121.
https://api.semanticscholar.org/CorpusID:151935115

B. Professional Associations Dedicated to Experiential Learning Expertise

Association for Talent Development (formerly the American Society for Training and Development)
https://www.td.org

American Management Association
https://www.amanet.org

C. Resources on Efficacy and Essentiality of Experiential Training in ADR

Benston, S., & Farkas, B. (2018). Mediation and Millennials: A dispute resolution mechanism to match a new generation. *Journal of Experiential Learning, 2*(2), 3. https://digitalcommons.tourolaw.edu/jel/vol2/iss2/3

Brubaker, D., Noble, C., Fincher, R., Park, S.K.-Y. & Press, S. (2014). Conflict resolution in the workplace: What will the future bring? *Conflict Resolution Quarterly, 31*, 357-386. https://doi.org/10.1002/crq.21104. https://onlinelibrary.wiley.com/share/ZI4XE42KA8DUBFQIRTUS?target=10.1002/crq.21104

Cominelli, L. (2016). Training young lawyers in the European mediation framework: It's time to devise new pedagogy for conflict management and dispute resolution. *Italian Law Journal, 2*(1), 163-176. https://heinonline.org/HOL/P?h=hein.journals/italj2&i=170

Fox, S., & Stallworth, L. E. (2009). Building a framework for two internal organizational approaches to resolving and preventing workplace bullying: Alternative dispute resolution and training. *Consulting Psychology Journal: Practice and Research, 61*(3), 220–241. https://doi.org/10.1037/a0016637

Francis, V. F. (2018). Infusing dispute resolution teaching and training with culture and diversity. *Ohio State Journal on Dispute Resolution, 33*(2), 171-232. https://heinonline.org/HOL/P?h=hein.journals/ohjdpr33&i=183

Frenkel, D. N., & Stark, J. H. (2015). Improving lawyers' judgment: Is mediation training de-biasing. *Harvard Negotiation Law Review, 21*(1), 1-58. https://heinonline.org/HOL/P?h=hein.journals/haneg21&i=7

Goforth, C. (2017). Transactional skills training across the curriculum. *Journal of Legal Education, 66*(4), 904-929. Retrieved August 1, 2021, from https://www.jstor.org/stable/26453525.

Hinshaw, A., & Wissler, R. (2005). How do we know mediation training works? Dispute Resolution Magazine, 12, 21-32. Available at SSRN: https://ssrn.com/abstract=1432478.

Jones, T. S., (2005). Editor's introduction: The emperor's knew clothes – What we don't know will hurt us. *Conflict Resolution Quarterly, 23*(2) 129-139. DOI 10.1002/crq.129.

Malin, M. H., & Ginsberg, D. I. (2018). Flipping the classroom to teach workplace ADR in an intensive environment. *Journal of Legal Education, 67*(2), 615-625. https://heinonline.org/HOL/P?h=hein.journals/jled67&i=621

Malizia, D. A., Jameson, J. K., Halberstadt, A., & Eng, N. (2020, March). *Mediation Training and the Law School Experience*. Report to the North Carolina Chief Justice's

Commission on Professionalism and the Department of Communication at North Carolina State University.

Merritt, D. (2010). Pedagogy, progress, and portfolios. *Ohio State Journal on Dispute Resolution, 25*(1), 7-24.
https://heinonline.org/HOL/P?h=hein.journals/ohjdpr25&i=9

Press, S. (1996). Institutionalization: Savior or saboteur of mediation. *Florida State University Law Review, 24*, 903-918.
https://heinonline.org/HOL/P?h=hein.journals/flsulr24&i=989

Qu, Y., & Cheung, S. O. (2013). Principle-based experiential e-learning exploration in construction mediation training. https://doi.org/10.1061/(ASCE)EI.1943-5541.0000183.

Raines, S., Hedeen, T., & Barton, A. B. (2010). Best practices for mediation training and regulation: Preliminary findings. *Family Court Review, 48*(3), 541-554. doi:10.1111/j.1744-1617.2010.01328.x

Ravindra, G., & Hedeen, T. K. (2015). Alternative paths to careers in ADR. *Dispute Resolution Magazine, 21*(3), 11-16.
https://heinonline.org/HOL/P?h=hein.journals/disput21&i=101

Simons, M. A., & McGuinness, M. E. (2015). American legal education, skills training, and transnational legal practice: Combining Dao and Shu for the global practitioner. *Tsinghua China Law Review, 8*(1), 125-134.
https://heinonline.org/HOL/P?h=hein.journals/tsinghua8&i=135

D. Exemplar Mediation Certification Programs

Department of the Navy Mediation Certification Training
https://www.secnav.navy.mil/ADR/Pages/mediacert.aspx

Florida Supreme Court Mediator Certification
https://www.flcourts.org/content/download/526739/file/HowToBecomeAMediatorGuideJuly2021.pdf

Court-Certified Mediator Qualification Requirements by State
https://onlinemasteroflegalstudies.com/career-guides/become-a-mediator/court-certified-mediation-requirements-by-state/

New York Dispute Resolution Association; Mediator Certification
https://www.nysdra.org/page/BecomeAMediator

Mediation Training Manual of India
https://main.sci.gov.in/pdf/mediation/MT%20MANUAL%20OF%20INDIA.pdf

3. Committee Recommendations for Moving Forward.

General Infrastructural Opportunities to Develop:

1. Improve the quality and quantity of research on experiential training with priority to online ET. At this stage of our search we can find no published research or reports on the effectiveness of online ET in our field. We also note that previous reviews of training research in our field (some included in #2 below) since 2000 have raised deep concerns about how little we have generated evidence about whether and to what extent our ADR training produces desired outcomes. The bottom line is we can't "prove" to external audiences that our training works – even though we have strong-held assumptions about its value.

2. Engage our professional associations to better promote this work. We could consider how professional associations may be able to create collaborative efforts to support the development of optimal experiential training methods and standards.

3. Developing expert trainers to serve the field in performing optimal experiential training. There are a number of world-class trainers in our field, however, we do not have infrastructures to build cohorts of expert trainers – especially those proficient in online experiential training. We have no identifiable learning processes to develop online trainers.

4. Mobilize graduate and undergraduate ADR programs to collaborate on addressing the issues identified here? There are a number of ADR and related programs that could consider collaborative projects and research as well as curriculum development.

Specific Recommendations:

1. Identify and Survey ADR trainers for their online experiential training practices: We need a better idea of what people are currently doing to think about best practices and needs.
   a. Sample people who represent training in different ADR processes and different conflict contexts.
   b. Use the survey to identify trainers willing to engage in ongoing conversations or on a team to explore mapping the field in these areas.
2. Create online training education curricula for mediation and other ADR process trainers.
   a. Encourage involvement of representatives of higher education ADR degree and specialty programs, instructional learning experts,

instructional technology experts, national organizations (e.g., NAFCM), and professional membership associations.

b. Review online training curricula and standards from related professions.

3. Explore advantages of developing a certification in online ADR training competence.