

Mentoring and Evaluating New Mediators

by Evan Ash

In spite of our best intentions, we all have to start somewhere! For an experienced professional who would like to become a mediator, classroom training may seem like the only beginning needed to become effective. However, wiser more seasoned heads have prevailed in the dispute resolution field. It is widely recognized that some degree of supervised practical or clinical training is needed. In Kansas, for example, to be approved by the Supreme Court for court ordered cases, a mediator must complete at least 15 hours or three cases under the supervision of another approved mediator. Similar minimum standards are honored throughout the field. Whether the new mediator met this minimal standard or obtained more practical training, the true quality of the training will depend on the qualities of the supervisor and the supervision. 

This article discusses some principles, concepts, and tools for those who supervise or “mentor” new mediators. Hopefully these will give the mentor the means to organize their training setting, assess the student, and support the development of their skills.

The Mentor’s Training Model

The mentor’s learning goal is to foster competence and confidence in their student. Competence comes from the acquisition of understanding and skill. Confidence comes from the successful use of that understanding and skill. Milton Erikson’s learning theory helps explain this process. We are first unconsciously incompetent, we do not know that we do not know. Here is typically where a person operates when they are unconnected to a practice such as mediation. Then something informs them that such a thing as mediation exists and they begin the next step of being consciously incompetent. A thirst to know begins, questions are asked, registration for a training course is mailed and incompetence is being met head on. Throughout the training, the student remains at this second level of learning. They are acquiring information and minimal practice through role plays. These two levels of Milton’s theory coincide with what Lang and Taylor [\(1\)](#) call being a “novice.”

It is not until they get the opportunity for hands-on experience that they even begin to approach the next level, becoming consciously competent. The difference between this level and the previous two is the potential for risk resulting from their actions. Novices are not put into a position where anyone is exposed to a risk of any kind. Being a novice is a protected status for both the student and the source of their learning. The student is free to explore hypothetically any question or idea they may encounter. The classroom uses hypothetical teaching aids or organized illustrations to educate the student. But at this new third level of learning, the student now engages real life. Risk, responsibility, and accountability become teaching tools along with concept and skill definition. The mentor needs to build this risk into the training if the student is

to gain competence and confidence. For this reason, this level of training is called “apprenticing.” The mentor gives the apprentice an increasing amount of risk, designed to match skill performance to degree of responsibility.

Mentored training usually begins with observation of real life cases. This allows the student to apply what they learned in the class room to the reality observed, in a risk-free manner. This provides a transition to real life for the student. It opens their eyes to what they are willing to engage as a mediator.

The next step would be to organize a series of cases where the student engages a progressively larger role in the conduct of mediation. Steps during this phase of the training might be

- 1) data gathering combined with the use of written tasks such as agendas and summaries as exercises independent of the actual mediation itself, and putting the student at the table with the parties as a minor member of the mediation team;
- 2) adding the responsibility of the monologue, some exposure to writing actual documents as part of the process, taking the lead on some of the actual mediation discussion; and
- 3) having the student take the lead role in the mediation team for the mediation process, generating all documents associated with the case;
- 4) having the student take a solo role, with the mentor observing the process from a distance, ready to rescue and assist only when absolutely needed; and
- 5) giving the student the opportunity to mediate alone, with the ability to caucus with the mentor at any time before, during, and after the process.

Each step increases the student’s hands-on practice and risk in a measured manner.

While a student may get a taste of the “practitioner “ level [\(1\)](#), this will probably take place outside of the formal clinical training. However, the mentor may choose to be available for future consultation, to be an informed, experienced resource for the new mediator as they encounter practice situations.

Quality Assessment

The student needs to understand the value of standards and functional definitions for insuring quality in mediation. This begins with the inclusion of quality assessment considerations in the training model. It is best understood from the standpoint that the new mediator will be providing a service, which qualities meet certain goals.

Their mediation service is valid, that is, it fits the needs of the situation. This is best defined as

the mediator's skill and knowledge fit the situation. This is met fundamentally through proper mediation training - e.g., family mediation training for domestic relations cases, successful clinical preparation has been completed - and the new mediator possesses the appropriate background to understand and interpret the content and context of the dispute. It also means the new mediator's skills have a good fit to the real life dynamics of the mediation situation - e.g., able to manage multi-party settings, human relations vs. monetary focus.

Secondly, the service needs to be reliable, that is, consistent from case to case. In real life terms, the new mediator displays competent use of their skills and knowledge consistently from session to session, case to case. Here is where the student developing competence and confidence is critical.

Thirdly, the new mediator's service needs to be dependable and responsible, typically guided by the ethics of our profession. Is the new mediator doing "authentic" mediation as it is generally accepted and recognized by the field? Are they applying the principles and ethics of mediation in all situations? First and foremost, is their service organized to provide the promised outcome of the parties' self-determination and ownership of the situation?

Mentors typically use two forms of student assessment - subjective and objective - to look at quality.

Subjective assessment is usually based on the mentor's individual experience, competency, frequently referring to anecdotal material from that experience. In this case, the results can be well-informed but may be more accidental, episodic, and eclectic. True quality tests tend to be incidental in this assessment and border on the personal. The more subjective the mentor is in their supervision, the more they are depending on their charisma and reputation to give the student confidence. This style of assessment tends to lead the mentor into a prescriptive model of coaching. (2) Here the mentor will tend to tell or demonstrate for the student what to do and expect them to comply with the mentor's modeling. The source of learning is wholly external, the student not encouraged to reflect on their experience, or internalize the clinical learning. As a result, the student leaves their clinical training with less understanding of their function, and more susceptible to being blindsided in real life situations.

Objective assessment uses collective, collaborative, juried, organized based reference points to guide and educate the student. Global examples of such references are the "Model Standards of Practice for Mediators" (3) and "Standards of Practice for Family and Divorce Mediation". Mentors may develop their own objective tools to assess students. These tools may be general or complex in their nature. In effect, they serve as a professional "yardstick" for assessing the quality of the student's performance. Therefore the key component of such a tool is that it contain operational definitions of the functions the student would perform during a mediation. These definitions need to be in behavioral terms and based on sound principles of mediation practice.

For example, **Use of Questions:** mediator used questions to foster dialogue between parties, exploration of issues and related information, engage parties in deeper considerations of issues, clarify content.

Future Focus: mediator kept focus on future as priority, using past for illustration purposes when helpful, directed parties' attention to the use of other considerations, resources and settings when content from the past was overwhelming the discussion of issues.

Reframing: Mediator restated party's comments in a manner that accurately captured their meaning and invited a constructive response.

This means the mentor needs to be well educated in the science of mediation and conflict resolution, having an “artist”⁽¹⁾ component to their own practice. This is a level of practice that reflects on professional experience, is willing to go back to the “novice” level and retrain themselves when encountering a hole in their readiness and preparation to effectively approach a mediation situation. In a sense, a good mentor will also be a good student who values the need for continuous learning. They will then impart this attitude to the student and the profession is enhanced overall by the quality that will result.

The student needs to be encouraged to understand the need for operational definitions of skills and process components. This recognizes that mediation is a distinct professional endeavor with its own body of science. Within the field of alternative dispute resolution, mediation is a distinct dispute resolution process that deserves its own study and development. From this body of science we all can draw guidance and encouragement in our practice.

Objective assessment of mediation, then, depends on the definition of goals, skill sets, and components of mediation. Such tools help the student utilize a structured comprehensive mediation assessment tool for learning as well as feedback. The very tool that will assess the student later in their clinical training can guide their observation in the early stage. Using such a tool to observe the mentor will further strengthen the student's grasp of the skills they will be expected to use later. Then the tool provides a more valuable learning experience for the student because the mentor was willing to let the student use it to consider what the mentor was doing.

Good mentoring also includes helping the student encounter the interplay of practice standards and individual style. Because mediation is both art and skill, personal style will always be a factor. One tool that can help foster this discussion is “[A Style Index for Mediators](#)” (Krivis and McAdoo).

As suggested earlier, prescriptive supervision does not offer the growth potential students may need for a sustainable practice. An alternative is what Lang and Taylor call elicitive coaching⁽²⁾. Here the mentor fosters a more interactive learning atmosphere, allowing the student to encounter, experience, interpret and experiment within the process of mediation. The mentor

supports the student in discovering the reasons behind their experience, consider the impact on the parties of the actions the student takes. The net result is cause the student to become a more reflective mediator, able to recognize their own cutting edge so they know when and where growth is needed in their practice. The mentor uses questions to foster this atmosphere, like, “What did you learn from the parties’ last exchange?” “What did you hope this line of inquiry would produce?”

Mentoring Opportunities

The mentor can apply the results of their quality assessment tools to the student’s learning and, as necessary, to guide remedial approaches. The operational definitions can help identify the student’s skill or understanding deficiencies. These definitions can be used as ways to flag needs and define good practice. Examples might include a student who does not listen well and misses key revelations, a student trying to impose their own solutions on the parties, and a student who is not articulating agreements well.

Critical to the learning process is the mentor’s willingness to examine themselves and their own skills, practice, understanding, assumptions, and beliefs. In effect a mentor needs to be willing to face the challenge for their need for artistry to be effective teachers.

Critical to each student’s learning is the need for a paradigm shift. Typically students are practicing another profession when they enter their mediation training. They are skilled and proficient in another way to practice. Keeping in mind that mediation has its own science and needs its discipline, students need to be able to move from their old paradigm to the new one of mediation. As a result, there will be the first time the mentor calls the student on the use of a method from their first profession that did not fit the mediation setting. Because the student wants to feel competent and confident, they typically become uncomfortable - hurt, defensive, discouraged, or other negative feeling - with the mentor’s comment. These are called the “bastard moment” and they are critical moments in the student’s learning. This is the threshold of the student becoming a mediator! For here the student begins to confront the challenge of the paradigm shift. How the mentor handles this moment is critical to the student’s embracing this opportunity to expand their professional self-perception. The elicitive approach becomes key to the success of this moment. Mentors cannot afford to fear those moments or avoid them because of their importance to the student’s growth.

Finally, what does a mentor do when a student shows a lack of aptitude for mediation in the clinical setting the mentor offers? One place to begin is the question of the student’s personal style. Using “A Style Index for Mediators” (mentioned earlier), the mentor can help the student assess their own tendencies in light of the clinical setting. For example, evaluative styles might be better suited for civil (monetary oriented) cases as contrasted to domestic cases where a more facilitative style is better suited to the features of the case. Narrow style tendencies might do better with single issue disputes where comprehensive cases might need comfort with a broad

approach.

Another factor is the timing of the clinical training in the student's life. For example, a student who is or has recently been involved in their own divorce action may lack the emotional readiness to engage another family's divorce issues. Likewise, an intense grief may prevent the student from focusing on the dynamics of the conflict.

Of course, not everyone is personally equipped to perform mediation or conflict resolution. Just because the student invested in the learning journey does not mean they are going to reach the destination they seek. They owe to the persons they may serve to personally have a good fit with the skills and knowledge essential for mediation to profit parties. Mediators owe this to the clients.

When a mentor encounters this mismatch or any other indication that the student lacks aptitude, the mentor has an obligation to be forthright but compassionate in reflecting their observations. This is probably a time where the mentor will need to use their mediation skills to help the student come to the realization to change directions to a new journey. The mentor will feel they are on solid ground in their assessment if they have been offering a clinical learning experience based on objective tools. Again, the mentor's willingness to examine themselves and their own practice, and to have adopted the practice goal of artistry, will have the personal tools to be an asset in the student's life and growth.

End Notes

1 Michael Lang, Alison Taylor. *The Making of a Mediator*. Jossey-Bass, 2000.

2 Lang and Taylor, *op. cit.*, page 53f.

3 These two standards can be found on www.mediate.com.

Evan Ash biography and additional articles: <http://www.mediate.com/people/personprofile.cfm?auid=130>

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