

Co-Mediation: The Perils and Pleasures of Teamwork

Co-mediation is mediation facilitated by two or more neutrals who together assist parties in addressing issues and reaching resolution.

Co-mediation is a skill that takes time and experience to acquire and is well worth developing. Learning how to mediate solo is an easier transition for mediators familiar with co-mediation than it is for the solo mediator to learn to work in tandem with a colleague. In addition, facility with co-mediation gives a mediator greater flexibility in serving clients, since some disputes by their nature respond better to the synergy co-mediation creates.

Co-mediation typically involves two neutrals working together, although some dispute resolution service providers utilize larger teams of neutrals. For example, Mediation Works Incorporated in its automotive franchise mediation programs utilizes teams of three mediators, including one with substantial process expertise and two with industry experience whose professional roles mirror that of the disputants.

Although solo mediation is more commonly encountered, co-mediation is an increasingly familiar model of practice, utilized not only by community and non-profit mediation programs as a pedagogical tool for mentoring and developing new mediators but also in commercial cases or other complex disputes, multi-party disputes, construction cases, and divorce and family matters, just to name a few of its applications.

Co-mediation offers numerous benefits for mediators, dispute resolution programs, and parties alike. It:

- Provides a check on mediator bias.
- Increases the likelihood that mediators will be able to establish rapport with and gain the trust of the parties.
- Ensures supervision of and mentoring for newly trained mediators or mediators gaining experience in a new practice area.
- Provides opportunity for all mediators regardless of skill level or experience to receive constructive feedback from a colleague.
- Builds in sensitivity to diversity and cultural considerations since mediators can mirror the cultural identities of the parties (gender, race, national origin, age, etc.).
- Produces the synergy that results when skilled mediators work together as a team.
- Builds in support for mediators managing difficult parties or dynamics.

- Improves the mediator's ability to facilitate complex, multi-party mediations.
- Makes available multiple skill sets when using mediators from different professional backgrounds for cases involving highly technical or complex issues requiring subject matter or other expertise.

Co-mediation can also be fraught with difficulties, which can affect the process in negative ways. These problems can include:

- Lack of focus that results when co-mediators lack a shared understanding of how to structure and guide the mediation.
- Impact on parties if differences between co-mediators are so evident and profound that they interfere with or stall out the process.
- Imbalance in teamwork if one mediator so dominates the process that the other mediator is unable to contribute or participate, which can confuse the parties and prove frustrating for the other mediator.

To leverage co-mediation and avoid these problems:

- Prior to the start of the mediation, allow sufficient time to meet with your co-mediator to discuss mediation styles and how best to work together.
- Set up seating arrangements in the room so that you can maintain eye contact with your co-mediator.
- Communicate directly with your co-mediator about process choices ("I'm thinking it's time for us to take a break – would that be okay with you?") or about other issues ("Freda, before we move on to Bob, I want to make sure I've understood what Linda's concerns are"). It models collaborative behavior for the parties. Setting up secret signals to communicate with your co-mediator is a waste of time.
- Take a break to discuss privately sensitive issues that arise that affect your ability to work together. Be honest with your co-mediator and be constructive in your feedback, providing specific information about what you observed. For obvious reasons, don't let the parties see you argue.
- See co-mediation as an opportunity to learn and gain insights into your own practice. Be open to and be willing to request feedback from your co-mediator.
- Remember that the purpose of mediation is to serve the parties, not your own private goals or your ego. Be willing to share the stage and allow your co-mediator to contribute.

Allow time once the mediation has concluded to debrief and discuss what each of you learned – what worked well and what you each could do differently next time.