



**MWI**

*Find your solution*

# Mediating in Court with MWI Information Session

*Conducted by:*

Clarice Parsons

**MWI** - *Ombuds, Negotiation, Mediation, and Training since 1994*

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# Orientation Purposes

We will cover:

- The basics of MWI's Virtual Court Mediation Program
- The process for seeking admission to the panel
- Requirements for panel mediators
- The process for getting cases
- Challenges for new mediators



# MWI Court Mediation Program

State approved program that provides free civil mediation services to Boston Municipal Courts and District Courts.

## Panel Info:

- ~65 Active Mediator Panelists
- Approved in 14 District & Municipal Courts
- Small Claims, Summary Process, Civil, and Harassment Prevention Orders (HPO), Referrals
- Both In Person and Virtual Mediation Opportunities



# Court Locations

MWI's District & Municipal Court Program provides volunteer mediation services in 14 different courts:

- Boston Municipal Court\*
- Charlestown\*
- Dedham\*
- Dorchester\*
- East Boston
- Hingham
- New Bedford
- Newton\*
- Plymouth\*
- Quincy
- Somerville\*
- South Boston\*
- West Roxbury
- Wrentham\*



# MWI Court Mediation Program Staff



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CONTACT

# Shifting to a Contractor Relationship

- As a trainee, you are MWI's client
- As you seek to become a panel member, your relationship shifts from client to contractor
- Expectations for contractors
  - Read emails
  - Follow guides and directions
  - Utilize the Neutral resource center
  - Receive and apply feedback
  - Display a necessary level of mediation skill
  - Work collaboratively with other mediators
  - Help MWI meet its goals to serve our court partners and their communities

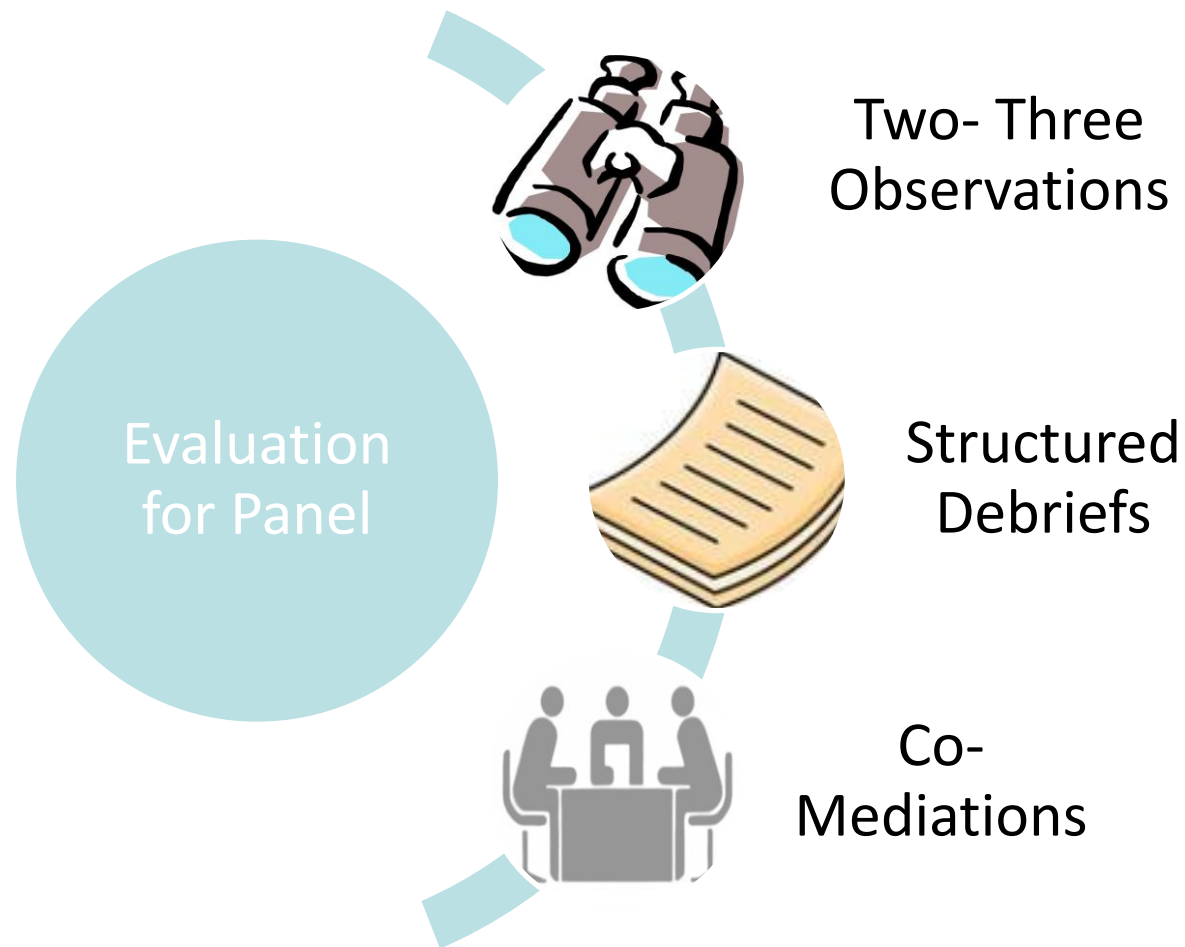


# MWI Mediation Model

- Co-mediation model (Host & Cohost)
- Facilitative
- Observers often present
- Post Mediation debrief
  - Feedback
  - What went well and what could be done differently
  - All neutrals participate



# Process for Gaining Admission to MWI's Panel





# Two-Three Observations

Purpose: see mediation skills applied in a real-life case

- Be on time (early) and plan time to debrief with mediators
- Ask mediators beforehand whether they welcome your input during caucuses or only at the end
- Refrain from speaking when parties are present (even casual chatting). Remain on mute during the Zoom session.
- Ask questions in the debrief



# Debriefs: how to give and receive feedback

## When giving feedback

Ask for buy-in

Be specific (action + impact)

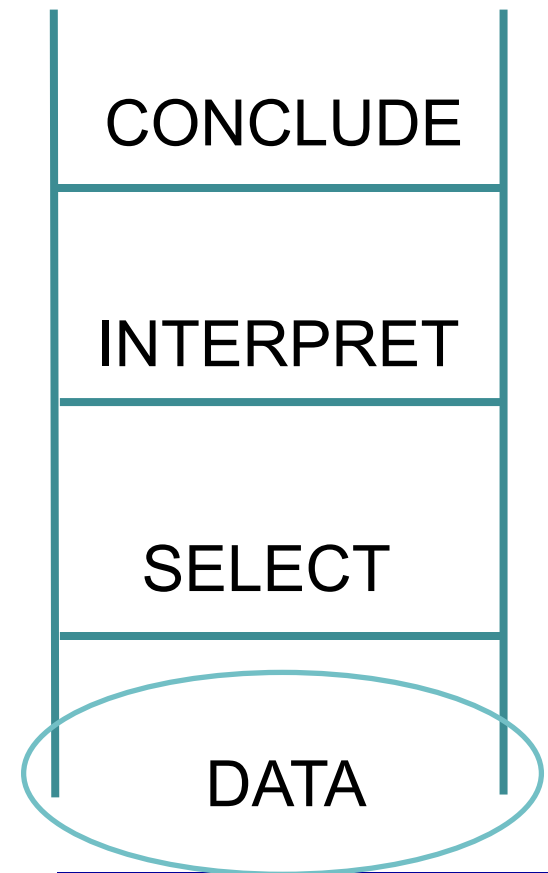
Ask for their thoughts

Focus on learning about their approach

## When receiving feedback

- Remind yourself: *every* mediator benefits from feedback
- Ask questions for clarification
- Reflect back what you heard
- Say thank you!

## The Ladder of Inference



# Debriefs: reporting back to MWI

- Complete the MWI Court Mediation Debrief Form after each observation and co-mediations: [www.mwi.org/court-mediation-debrief-form](http://www.mwi.org/court-mediation-debrief-form) (available in the Neutral Resource Center)
- Focus on:
  - Identifying interests
  - Applying your critical eye to the case (What worked well for the mediators? What could have been done differently?)
  - Communicating challenges and questions



# Co-Mediations

- You **MUST** mediate with an experienced mediator until Clarice gives you permission to solo mediate or serve as host mediator
- Let the experienced mediator write the agreement in your first two co-mediations
- Continue to complete the Mediator Debrief Form
- Everyone is different – don't be discouraged if you need more co-mediations to build your skills and comfort level as a mediator



# What we're looking for

- Who settled the case – the mediators or the parties?
- Are agreements the best indicator of a mediator's skill?
- What does it mean to be a facilitative mediator?
  - Where do we focus – the facts/timeline or the parties' interests?
  - Should we offer parties solutions or evaluations of their case?
  - Do we have a responsibility/right to “set parties straight” or “talk some sense into them”?
- What is the listening triangle, and how do you apply it?
- How do you work with and value your co-mediator?
- How do you remain neutral when parties are stuck or displaying difficult behaviors?
- Do you still feel like you have something to learn?



# Program Requirements

Five principles of mediation?

- Voluntary
- Confidential
- Neutral / Impartial
- Self Determination
- Informed Consent

← It is essential to know  
← and review the answers  
← to these questions!

What are interests?

What does it mean to be facilitative as a mediator?



# MWI Court Panel Requirements

- Follow the principles of mediation
- Be active with the Panel once per month
- Adhere to MWI policy and procedure
- Utilize Roundtables and neutral resources
- Uphold MWI's strong reputation
- Allot at least two and a half hours for mediation (duration varies)
- Complete the debrief form after each mediation
- Co-mediate ~five cases before registering for advanced trainings
- Complete summary process training before mediating summary process cases
- Debrief your cases with co-mediators and observers



# Court (or Zoom!)





# Panel Member Expectations

1. Read all training documentation/emails from MWI staff, and follow protocols laid out in documentation
2. Treat all parties/staff members with respect
3. Try to mediate at least once a month\*
4. Show up on time (early)
5. Gain comfort with Zoom/technology used for mediations
6. Attend Roundtables for continued support
7. Please expect:
  1. For there to be glitches in the portal
  2. For cases to come in at an uneven pace
  3. To learn a lot!



# What to Do

- Check court schedule for location
- Meet with co-mediator to find a space
- Stay for the calling of the list
- Mediate (stay for a second case if you can)
- Submit court forms to magistrate/ close case in the portal
- Debrief with co-mediator
- Send paperwork to MWI within 24 hours
- Obey court personnel at all times
- If the court asks you to mediate a case, take it\*

*\*address any concerns with case referrals to Clarice*



# What NOT to Do



- Be rude, unprofessional or violent
- Be late
- Ask too many questions of court personnel
- Mediate cases before observing three times
- Go on days when you did not sign up
- Mediate summary process before taking specialized training



# Court Forms

## Required forms

1. Agreement to Participate in Mediation Form
2. ADR Referral Form
3. Mediation Memorandum/Agreement for Judgment

## Learning to use forms

- In your observations, talk about the forms with mediators as you debrief. They can show you how and why they filled out the form the way they did.
- In your early co-mediations, allow your experienced co-mediator to fill out the forms. Watch and learn.
- In your later co-mediations, you should fill out the forms and ask your co-mediator for guidance/feedback.



# Challenges for the New Mediator

- You can't meditate together
- You're relying on a smaller pool of more experienced mediators to supply cases for a larger pool of inexperienced observers
- MWI's panel must convene cases, which means it takes longer to bring parties to the table and schedule a mediation date
- You're applying new skills with new people over Zoom or in person
- You must stay up to date on communications/expectations from MWI & the Courts
- Due to post-pandemic adjustments, you also have to manage a level of uncertainty and ambiguity.
- This is volunteer work. Our Court partners and we appreciate your work



# Non-compete:

- District & Municipal Court observers, mediators and panel members may not solicit clients or accept referrals for a private practice while representing MWI as a part of this program
- Any potential referrals, clients, cases, trainings or other services generated through the Court Program must be provided to Clarice Parsons
- Failure to comply with MWI's non-compete will result in immediate ending of ties with MWI
- MWI seeks to include Panel members in mediations they refer from court



# Wrap - Up

Happy mediating,  
and thank you for being part of MWI!

