

A few announcements before we get started

- Today's session will be recorded and posted to OJD's YouTube page
- We'll be using polls during today's training. If you want to get ahead, open the link to the polls on a mobile device using the QR Code → Alternatively, you can open the poll by opening your internet browser and going to: **Slido.com**
 - Enter **#1034722**
 - Then enter the passcode: **wkwppg**
- You will have the ability to share your video and to unmute once we move to breakout room sessions (~2:20 pm)



Join at
slido.com
#1034 722

Passcode:
wkwppg

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Navigating Legal Advice v. Legal Information in Court-Connected Mediation
A Court-System Training Module
 AJ Wahl, Caitlyn Jackson,
 Alyssa Clements, Sam Imperati, and Susanne Smith

 December 6, 2024

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Who are we?

- Introductions
- Break out room leader introductions

DISCLOSURE: Although AJ and Sam are licensed members of the Oregon State Bar, this presentation does not establish an attorney-client relationship, nor is it legal advice. Laws change, new cases are decided, attorneys often have different interpretations, and practices evolve. The trainers' (including the break-out room leaders) materials and the oral presentation discuss general concepts and are NOT to be relied upon as legal advice. Please seek independent legal and other professional advice.

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Welcome



Two Hours



**Training
Structure**



**Beginner
level course
qualifies for
one hour of
the court-
system
training.**



**Local court
differences**

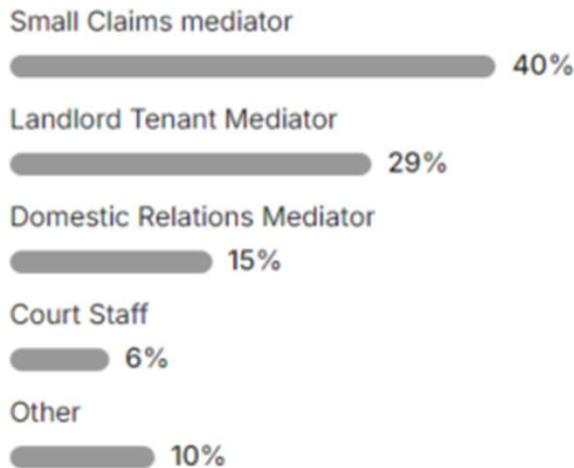


**Q&A for
Questions
&
Chat for
Comments**

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1. Who is here today? Select your primary role.



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2. True or False?

If a party asks the mediator for legal information during mediation, the mediator must answer the party's question directly.



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3. Is the mediator's response legal advice or legal information?

Mediation Party: Who will win if we go to court?

Mediator: Based on what you shared with me, I'm guessing the petitioner has a 98% chance of getting everything they asked for in court.



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Legal advice ✔

————— 82%

Legal Information

————— 18%

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4. Is the mediator's response legal advice or legal information?

Mediation Party: "The paperwork I was served a few weeks ago says I have 30 days to file a response. Is it too late to file a response?"

Mediator: "It looks like you were served 22 days ago so you have until March 8th to file your response."



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Legal advice ✔

————— 31%

Legal information

————— 69%

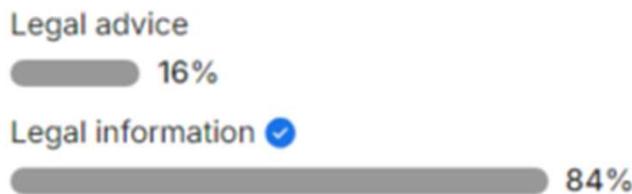
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5. Is the mediator's response legal advice or legal information?

Mediation Party: "What happens if we do not reach an agreement in mediation?"

Mediator: If an agreement is not reached in mediation, then your case will proceed to trial. Here is a court resource describing the trial process. As you can see, a trial is a formal court process and there are rules. Both sides will have the opportunity to testify and to present witnesses or evidence. During trial, the judge will listen to and review evidence from both sides. Then a judge will make a decision in favor of one party.



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I can always appeal, right?	I don't think this is my debt. What do I do?	How do I get what I want?
What are my rights?	Hearsay? How do I prove my case?	How do I get the judge to rule in my favor?
Custody? That was already resolved in our divorce...how can it be a small claims matter?	Habitability? What happens if we don't agree?	
How do I convince the other side to settle? What form should I use to get a restraining order?	What should I do?	
Shouldn't this be handled by a different circuit court?	What happens if I lose?	Injunctive relief? Isn't that illegal? They can't do that, can they?
Rules of evidence? What does that mean?		

Why are we here today?

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I can always I don't think this is my debt. What do I do?

Hearsay? How do I prove my case? How do I get the judge to rule in my favor?

My rights? What was already resolved in our case...how can it be a small claims matter?

Habitability? What happens if we don't agree?

What form should I use to get a restraining order? What should I do?

Handled by court? What happens if I lose? Injunctive relief? Isn't that illegal? can't do that, ca

Rules of Evidence? What does that mean?

Today's Training is focused on navigating direct questions from parties during court-connected mediations.

We will not be covering more advanced scenarios such as how a mediator determines whether to share unrequested information to respond to power dynamics or how to navigate serving as a mediator with dual roles.

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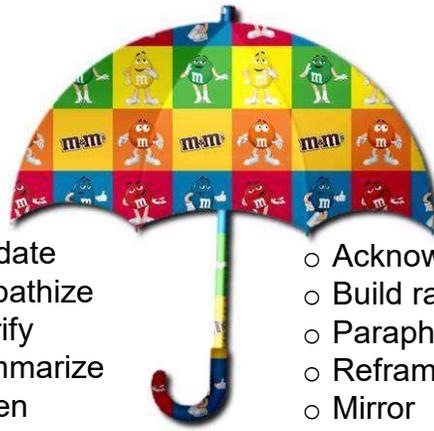
A “Sweet” Approach for responding to questions in court-connected mediation:
M&Ms

- ⦿ **Mediator Techniques** – remember who you are!
- ⦿ **May you?** If you want to provide a direct answer to the question, may you?
- ⦿ **Should you?** Should you provide the direct answer to the question?

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Mediator Techniques

Remember who you are – MEDIATORS – and all the mediator skills available to you.

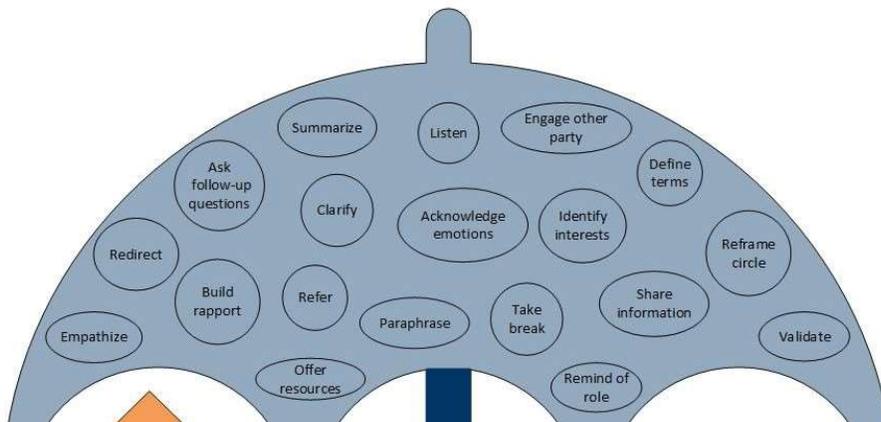


- Validate
- Empathize
- Clarify
- Summarize
- Listen
- Redirect
- Engage other party
- Identify Interests
- Define terms
- Acknowledge emotions
- Build rapport
- Paraphrase
- Reframe
- Mirror
- Refer to professionals
- Remind of role
- Share information
- Take break

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Mediator Techniques



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Gut check



- Do you want to answer the question directly or not?

If No

Use other mediator techniques to move forward



If Yes

Proceed to determine whether you **may** provide a direct answer.

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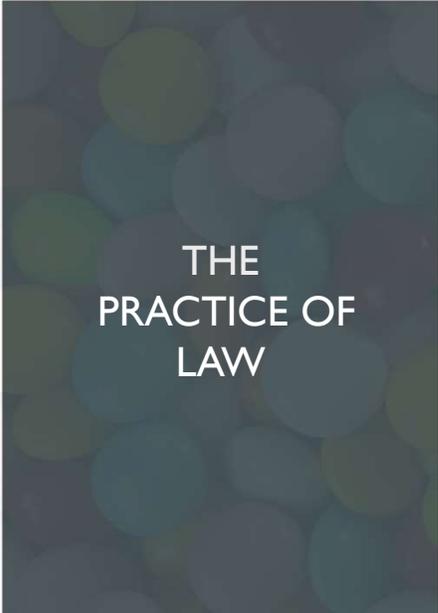
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May you provide a direct answer to the question?

Short answer – No

ORS 36.195 (4) "All court mediators shall encourage disputing parties to obtain individual legal advice and individual legal review of any mediated agreement prior to signing the agreement."

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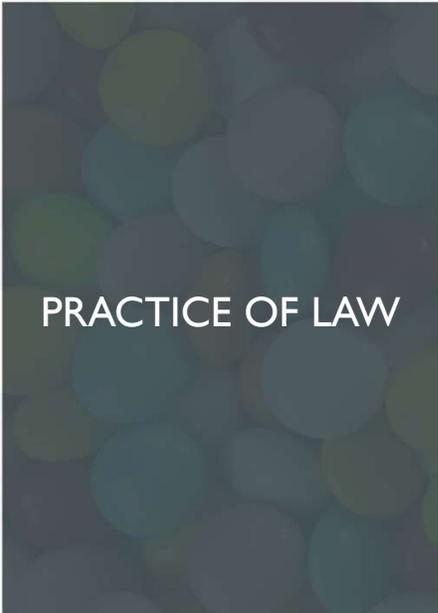


THE
PRACTICE OF
LAW

ORS 9.160 “Bar membership required to practice law”

(1) “Except as provided in this section, a person may not practice law in this state, or represent that the person is qualified to practice law in this state, unless the person is an active member of the Oregon State Bar.”

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PRACTICE OF LAW

What is the practice of law?

Providing legal advice:

- Applying the law to the facts
- Interpreting statutes, case law, regulations
- Advising someone of their legal rights

“The practice of law involves, among other things, the application of a general body of knowledge to the problems of a specific entity or person.” (OSB Formal Ethics Op No 2005-101 (rev 2015))

From Oregon State Bar Formal Ethics opinions
<https://www.osbar.org/ethics/toc.html>

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UNLAWFUL PRACTICE OF LAW

What is the unlawful practice of law?

Providing legal advice without a license to do so

See *State v. Wright* – individual recommended to persons enrolled in a course with instruction on self-representation that they select particular forms for use in solving their particular legal problems

Check out for more info:

<https://www.osbar.org/UPL/advisoryopinions.html>
for advisory opinions from Oregon State Bar for more information.

From Oregon State Bar Unlawful Practice of Law FAQs
<https://www.osbar.org/UPL/faq.html>

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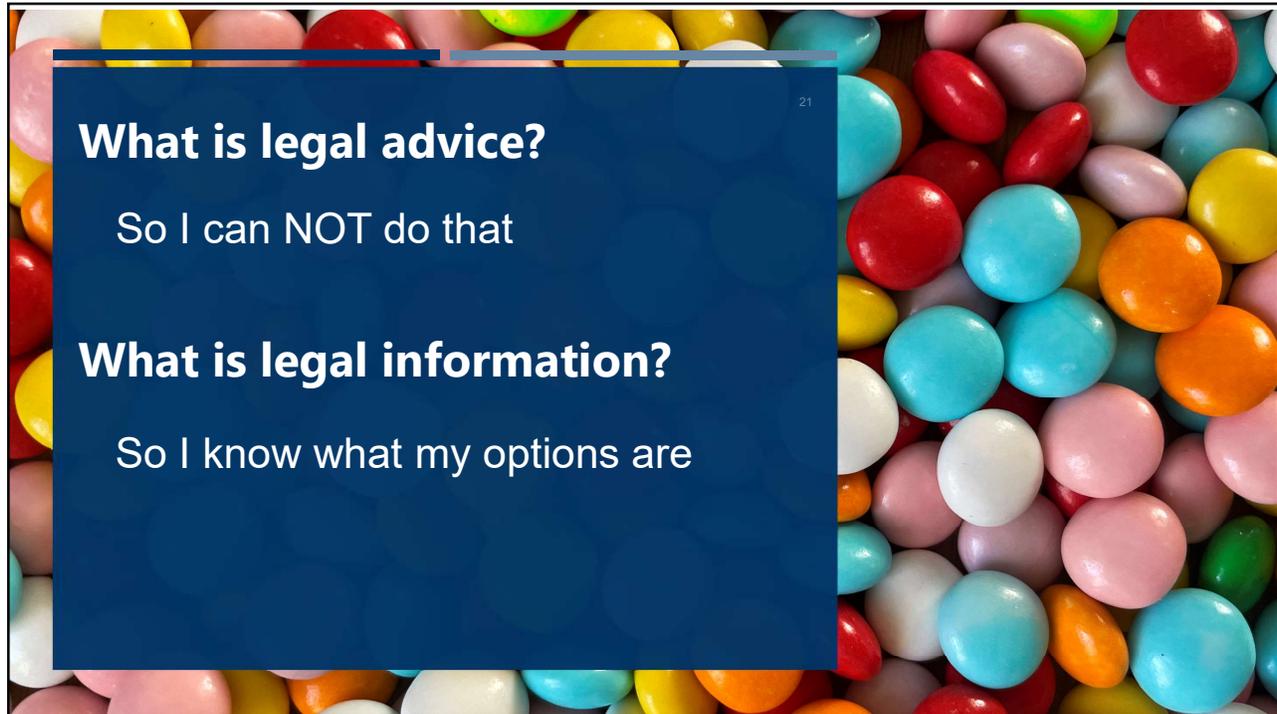
LEGAL INFORMATION

What is the NOT the unlawful practice of law?

Providing legal information

See *State v. Gilchrist* - providing general forms to the public was not legal advice, but helping individuals select particular forms based on their particular situation was legal advice

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What is legal advice?
So I can NOT do that

What is legal information?
So I know what my options are

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LEGAL INFORMATION VS. LEGAL ADVICE	
Rules of the game	Game strategy
Best outcome and worst outcome talk	How to win (and how to lose)
General facts – what happened	Applying law to facts
General forms available to everyone	Selected form with specific instructions
Impartial regard – does not take sides	Advocacy – furthering one sides interests
What do you want to happen	What should happen

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Mediators CANNOT**

- Recommend a particular strategy or course of action to win a case.
- Advise others of their legal rights
- Evaluate and convey a probable court outcome.
- Tell a party what they “should do”.
- Interpret statutes or apply legal principles to the facts of a case or situation.
- Tell parties which form if there is more than one option or what to write on any form.
- Take sides or advocate for one party.
- Speculate about what the judge will do or predict the case outcome.
- Talk to a judge on behalf of a party.
- Perform legal research for a client.

***This slide is intended for court-connected mediators who are not licensed members of the Oregon State Bar.*

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When faced with a question from a party during mediation, a court-connected mediator is generally permitted to:

Provide direct responses to questions that fall in these categories*

- Help participants understand the mediation process, issues, and resolution options.
- Encourage parties to consider the benefits of participating in mediation or agreement and the consequences of non-participation and non-agreement.
- Share court-approved resources and referrals.
- Share information about the law, legal process, or resolution options without interpreting or applying the law to the case facts.**
- Provide definitions and refer to statutes, rules, and procedures without applying individual case facts.**



*This chart assumes the mediator knows the accurate and complete direct answer to the question.



**Only permitted if the mediator is authorized to share the information by the local court. The line between providing pure information and legal interpretation or legal application is gray. If in doubt, the mediator should not share the information.



***This slide is intended for court-connected mediators who are not licensed members of the Oregon State Bar.

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Oregon State Bar, Rules of Professional Conduct

RULE 2.4 LAWYER SERVING AS MEDIATOR.

- (a) A lawyer serving as a mediator:
 - (1) shall not act as a lawyer for any party against another party in the matter in mediation or in any related proceeding; and
 - (2) must clearly inform the parties of and obtain the parties' consent to the lawyer's role as mediator.
- (b) A lawyer serving as a mediator:
 - (1) may prepare documents that memorialize and implement the agreement reached in mediation;
 - (2) shall recommend that each party seek independent legal advice before executing the documents; and
 - (3) with the consent of all parties, may record or may file the documents in court.
- (c) The requirements of Rule 2.4(a)(2) and (b)(2) shall not apply to mediation programs established by operation of law or court order. Adopted 01/01/05.

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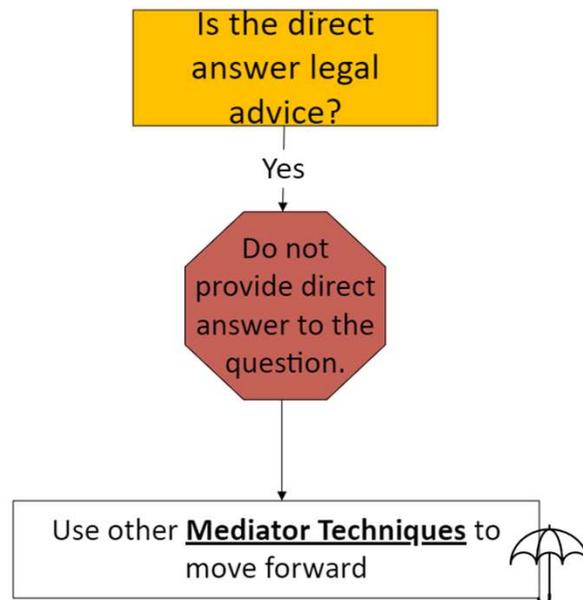


What Are The Risks If Mediators Engage In The Unlawful Practice Of Law?

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May you provide a direct answer to the question??



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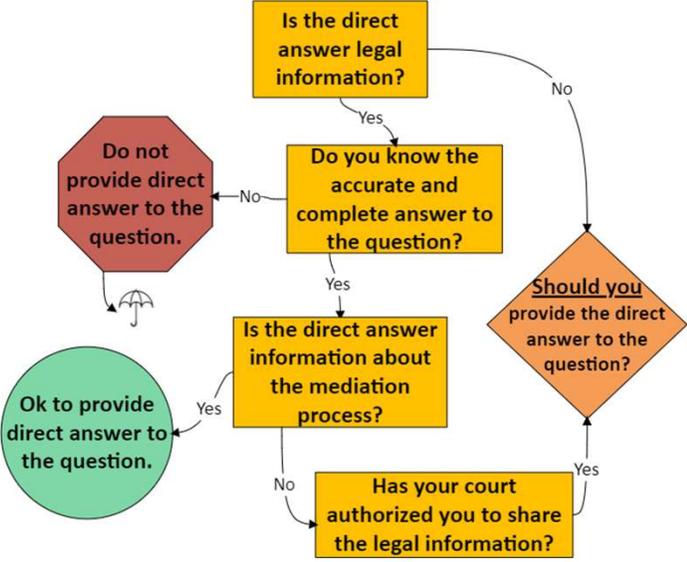
A “Sweet” Approach for responding to questions in court-connected mediation

- **Mediator Techniques**
- **May you provide a direct answer to the question?**
 - Legal Advice vs. Legal Information
 - Do you know the accurate and complete answer?
 - Is the direct response information about mediation process?
 - Has your court authorized you to share the legal information?

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May you provide a direct answer to the question??





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graph TD
    Q1[Is the direct answer legal information?] -- No --> D1{Should you provide the direct answer to the question?}
    Q1 -- Yes --> Q2[Do you know the accurate and complete answer to the question?]
    Q2 -- No --> A1{{Do not provide direct answer to the question.}}
    Q2 -- Yes --> Q3[Is the direct answer information about the mediation process?]
    Q3 -- No --> Q4[Has your court authorized you to share the legal information?]
    Q3 -- Yes --> A2((Ok to provide direct answer to the question.))
    Q4 -- No --> A1
    Q4 -- Yes --> D1
    D1 -- No --> A1
    D1 -- Yes --> A2
            
```

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Should you provide a direct answer to the question?

- Just because you want to give a direct answer and may give a direct answer, doesn't mean you should.
- Consider the Oregon Mediation Association Core Standards of Mediation Practice

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OMA Core Standards of Mediation Practice
https://ormediation.org/wp-content/uploads/2016/04/CoreStandardsFina_2005.pdf

**OREGON MEDIATION ASSOCIATION
 CORE STANDARDS OF MEDIATION PRACTICE**
 Revised April 23, 2005

PREAMBLE

These Core Standards of Mediation Practice are designed as an educational tool to: (1) guide mediators in Oregon in the practice of mediation, (2) inform participants about mediation, and (3) promote public trust and confidence in mediation as an effective and productive process for resolving disputes.

provided to give additional guidance and aid in the interpretation of the Standard.

When these Core Standards conflict with laws, regulations, professional licensing rules, professional ethical codes, or contracts by which the mediator may be bound, mediators should be aware and make participants and others in attendance aware that those requirements may take precedence over these Core Standards.

DEFINITIONS

Mediation is defined in Oregon as "... a process in which a mediator assists and

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**Oregon
 Mediation
 Association
 Core Standards
 of Mediation
 Practice**

I. Self Determination	II. Informed Consent
III. Impartial Regard	V. Process & Substantive Competence
VI. Dual Roles and Hybrid Processes	X. Mediation Practice

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OMA Core Standards — X. Mediation Practice

Mediators act in a manner that enhances the integrity and quality of the mediation field.

12. Mediators should be aware of and abide by rules governing the unlawful practice of law...

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OMA Core Standards

IX. Dual Roles & Hybrid Processes

Mediators engage only in the role(s) to which the participants consent during mediation or any hybrid process that includes mediation...Mediators do not provide participants with legal advice, therapy, counseling, or other professional services during mediation without prior Informed Consent....

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OMA Core Standards — IX. Dual Roles & Hybrid Processes

Mediators engage only in the role(s) to which the participants consent during mediation or any hybrid process that includes mediation...Mediators do not provide participants with legal advice, therapy, counseling, or other professional services during mediation without prior Informed Consent...

1. Mediating toward a voluntary agreement between the participants differs substantially from other service relationships. A dual role is created when the mediator provides additional services to the participants. Providing referrals, *facilitation**, education, and/or training does not create a dual role.

2. Dual roles can be challenging. Mediators should discuss with participants the differences between the various services that could be provided by the mediator or others.

3. Mediators who undertake a dual role assume additional obligations and potential liabilities.

Facilitation*** as referenced by ORS 36.110. This standard is NOT referring to court facilitation outlined under ORS 3.445

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Should you provide a direct answer to the question?

Consider Principles Of IX. Dual Role & Hybrid Processes and X. Mediation Practice?



- Does your answer:
 - Engage only in the role(s) to which the participants consented? (In other words: your answer does not provide participants with legal advice, therapy, counseling, or other professional services without prior Informed Consent?)
 - Offer information regarding various services that could be provided by the mediator or other professionals?
 - Provide referrals, education, and/or training?
 - Abide by the rules governing the unlawful practice of law?

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OMA Core Standards:

V. Process & Substantive Competence

Mediators fully and accurately represent their knowledge, skills, abilities, and limitations. They mediate only when they offer the desired approach and possess the level of substantive knowledge, skills, and abilities sufficient to satisfy the participants' reasonable expectations (emphasis added).

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OMA Core Standards — V. Process & Substantive Competence

Mediators fully and accurately represent their knowledge, skills, abilities, and limitations. They mediate only when they offer the desired approach and possess the level of substantive knowledge, skills, and abilities sufficient to satisfy the participants' reasonable expectations.

Mediators should:

Exercise their independent judgment when their abilities or availability are unlikely to satisfy the participants' articulated expectations....Mediators should consider factors such as the participants involved, their agreed upon mediation approach, and the complexity, subject matter, and specific issues of the dispute.

Have, maintain, and improve their process skills and substantive knowledge necessary to reasonably satisfy the expectations of the participants in the matters they mediate.

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Should you provide a direct answer to the question?

Consider Principles Of Process and Substantive Competence



- Does your answer:
 - Demonstrate a sufficient level of substantive knowledge, skills, and abilities?
 - Fully and accurately represent your knowledge, skills, abilities, and limitations?
 - Clarify incorrect assumptions regarding the role of a court-connected mediator?
 - Offer factually correct information?

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OMA Core Standards I. Self Determination

Mediators respect, value, and encourage the ability of each participant to make individual decisions regarding what process to use and whether and on what terms to resolve the dispute.

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OMA Core Standards — I. Self Determination

Mediators respect, value, and encourage the ability of each participant to make individual decisions regarding what process to use and whether and on what terms to resolve the dispute.

Mediators should:

1. Encourage [parties] to make their own decisions on all issues.

4. ...Help participants understand the process, issues, and options before them and encourage participants to make informed and voluntary decisions.

5. Encourage participants to consider benefits of participation in mediation and agreement, and the consequences of non-participation and non-agreement.

6. Respect a participant's informed decision to continue or end mediation.

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Should you provide a direct answer to the question?

Consider Principles Of Self-determination



- Does your answer:
 - Help participants understand the process, issues, and options before them?
 - Encourage parties to make their own voluntary and informed decisions?
 - Encourage parties to consider the risks and benefits of participating in mediation and agreement?
 - Clarify incorrect assumptions regarding the role of a court-connected mediator?
 - Respect participants decision to participate in or end mediation?

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OMA Core Standards II. Informed Consent

To fully support Self-Determination, mediators respect, value, and encourage participants to exercise Informed Consent throughout the mediation process. This involves making decisions about process, as well as substance, including possible options for resolution....

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OMA Core Standards — II. Informed Consent

To fully support Self-Determination, mediators respect, value, and encourage participants to exercise Informed Consent throughout the mediation process. This involves making decisions about process, as well as substance, including possible options for resolution....

Mediators should:

2. **Disclose or offer to disclose the information reasonably necessary for each participant to make informed decisions** about whether to use the mediator and whether to participate in a specific mediation process and approach. **Mediators should explain their approach, along with the roles** of the mediator, participants, representatives, and others in attendance.

3. Disclose information regarding conflicts of interest, fees, relevant relationships, process competency, and substantive knowledge of the subject matter in dispute. **Mediator disclosures should be truthful and not misleading by omission.**

5. Make ongoing, good-faith efforts to assess the freedom and ability of each participant to make choices regarding participation in the mediation and options for reaching agreement. In assessing the situation, the mediator should consider factors such as the abilities, learning style, language competency, and cultural background of each participant. Mediators should suspend, end, or withdraw from the mediation if they believe a participant is unable to give Informed Consent.

6. Make participants aware of the importance of consulting with other professionals to help them exercise Informed Consent and Self-Determination.

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Should you provide a direct answer to the question?

Consider Principles Of Informed-Consent



- Does your answer:
 - Offer information reasonably necessary for each participant to make informed decisions regarding the mediation process, the substance of the dispute, and/or possible options for resolution?
 - Support the freedom and ability of each participant to make choices regarding participation in the mediation and options for reaching agreement?
 - Align with participants' abilities such as learning style and language competency?
 - Provide a truthful disclosure that does not mislead by omission?

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OMA Core Standards II. Impartial Regard

Mediators demonstrate Impartial Regard throughout the mediation process by conducting mediations fairly, diligently, even-handedly, and with no personal stake in the outcome...

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OMA Core Standards — III. Impartial Regard

Mediators demonstrate Impartial Regard throughout the mediation process by conducting mediations fairly, diligently, even-handedly, and with no personal stake in the outcome...

Mediators should:

3. Guard against the potential impact on their Impartial Regard... This also includes situations where the mediator's ability to demonstrate Impartial Regard is compromised or appears to be compromised because of the mediator's personal biases, views, or reactions to any position, argument, participant, representative, or other person in attendance.

4. Not knowingly misrepresent any material fact or circumstance in the course of the mediation process.

5. Advise [parties] to seek independent legal advice and the review of any documents before signing them (regardless of whether the participants have attorneys)

6. Avoid conflicts of interest when recommending or referring participants to other professionals for services.

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Should you provide a direct answer to the question?

Consider Principles Of Impartial Regard



- Does your answer:
 - Uphold impartial regard?
 - Discourage perceptions you are taking sides?
 - Accurately represent material facts or circumstances?
 - Avoid conflicts of interest?
 - Recommend parties seek independent legal counsel?

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Should you provide a direct answer to the question?



Red light, yellow light, green light?

I. Self Determination

II. Informed Consent

III. Impartial Regard

V. Process & Substantive Competence

VI. Dual Roles and Hybrid Processes

X. Mediation Practice

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Should you provide a direct answer to the question?

- Just because you want to give a direct answer and may give a direct answer, doesn't mean you should.
- Consider the Oregon Mediation Association Core Standards of Mediation Practice
- If you determine it is okay to answer the question directly, what do you say mechanically?

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Putting it all together

- Legal Information vs legal advice:
 - The line between providing pure information and legal interpretation or legal application is gray. If in doubt, the mediator should not share the information.
- Consider the Oregon Mediation Association Core Standards of Practice
- If you determine it is okay to answer the question directly, what do you say? What are the mechanics?

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**LET'S PRACTICE NAVIGATING
RESPONDING TO QUESTIONS IN COURT-
CONNECTED MEDIATION**

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Impact Of Mediator Approach On What To Say In Response to Questions

Mediator approach=the behaviors, philosophies, processes, styles, and techniques used by mediators to conduct mediation.

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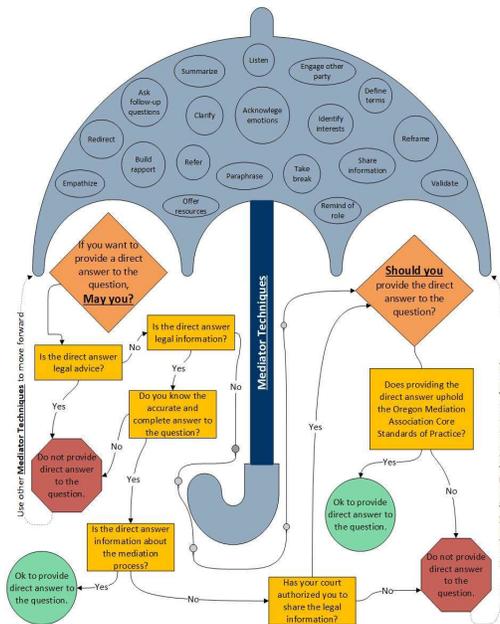
A “Sweet” Approach for responding to questions in court-connected mediation

- **M**ediator Techniques
- **M**ay you provide a direct answer to the question?
 - Legal Advice vs. Legal Information
 - Do you know the accurate and complete answer?
 - Is the direct response information about mediation process?
 - Has your court authorized you to share the legal information?
- **S**hould you provide a direct answer to the question?
 - Oregon Mediation Association Core Standards of Practice
 - Mechanically, how do you proceed? What do you say either way?

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A Flowchart for Navigating Questions from Parties in Court-Connected Mediation

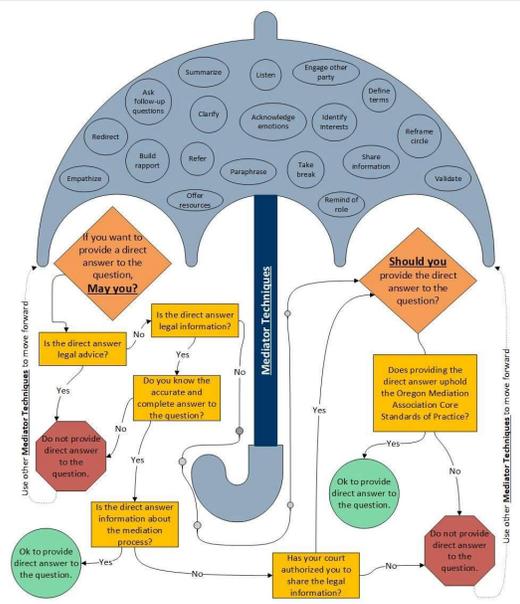
Navigating Questions from Parties in Court-Connected Mediation*
*This guide is intended: To help court-connected mediators navigate questions from parties. Do not use this guide for more advanced scenarios (such as when to share information if a party has not requested it directly).



Breakout Rooms

Five Break-out Rooms to go through hypotheticals

- 1) Small Claims #1
- 2) Small Claims #2
- 3) Landlord Tenant
- 4) Domestic Relations
- 5) For mediators who are members of the Oregon State Bar



Breakout Room Instructions

- You have already been preassigned to a breakout room.
- You will automatically be moved to the breakout room.
- Be prepared to share your video and to unmute once you are in the breakout room session (this may occur automatically).
- Once you are moved, make sure you are in the correct room.
 - If not, tell your breakout room leader or click “return to main meeting” and use the chat to ask to be moved to the correct room
 - If you are in the correct breakout room, take a five minute break.

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Time for Breakout Rooms



If you were not moved to a breakout room

Please type your primary area of practice into the chat from the list below so that you can be assigned to the correct breakout room:

- Licensed member of the Oregon State Bar
- Small Claims Mediator
- Landlord Tenant Mediator
- Domestic Relations Mediator

**Breakout Room Timeframe:
2:20 pm - 2:44pm (pending)**

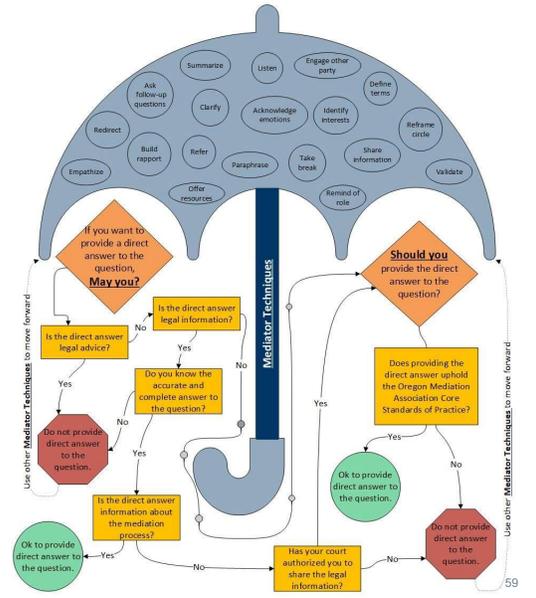
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Small Claims– Hypothetical #1

The respondent asks the mediator: “Do I owe this debt even though insurance said they were covering it?”

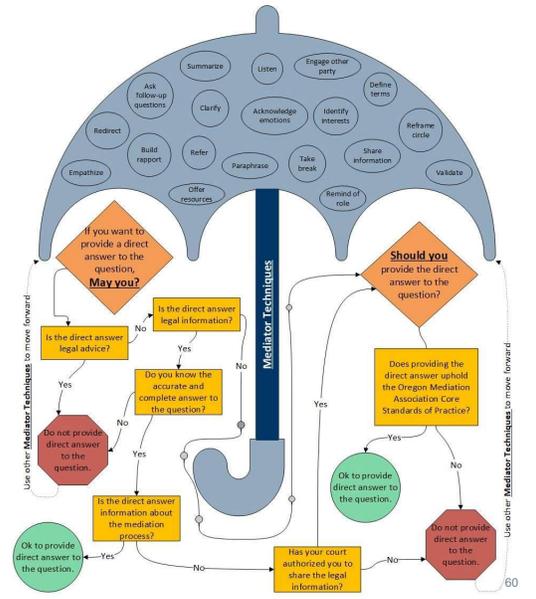
What do you say?



Small Claims– Hypothetical #2

The respondent asks the mediator, “I already paid this. How do I show this proof of payment to the judge?” The plaintiff jumps-in and says, “I’d like to know how to show the judge proof too.”

What do you say?

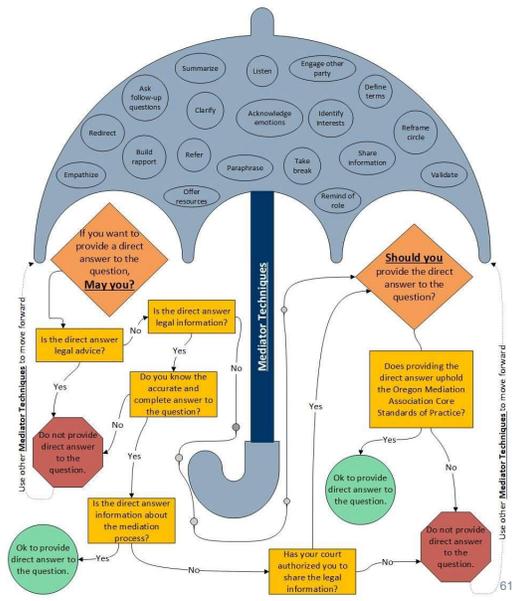


Small Claims– Hypothetical #3

The respondent asks the mediator, “I already paid this bill. How do I show this proof of payment to the judge? I need to know how to do that before I can decide whether or not it makes more sense to just agree to this payment plan.”

Before you can respond, the plaintiff jumps in and says, “So you aren’t even going to try to negotiate with me? You just want to talk about going to trial?”

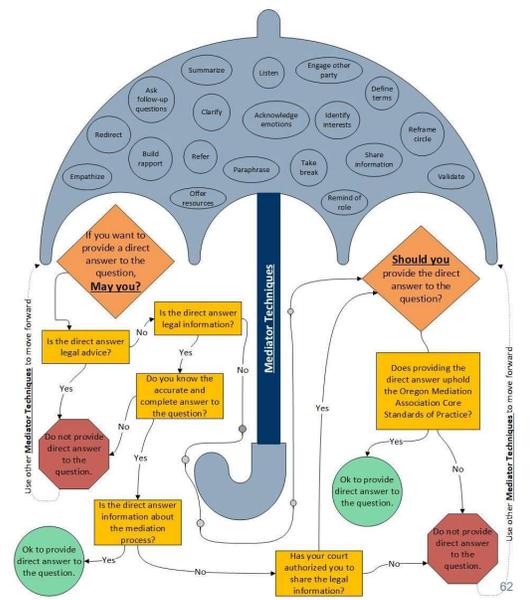
What do you say?



Landlord Tenant – Hypothetical #1

You are mediating a landlord/tenant case involving non-payment of rent. The mediation is on the same day as the first appearance, but they have not met with the Judge yet. During mediation discussions, both parties agreed they would like to take additional time so that the tenant can pay rent to the landlord. They ask you if they can do this, and if so, what form can they use.

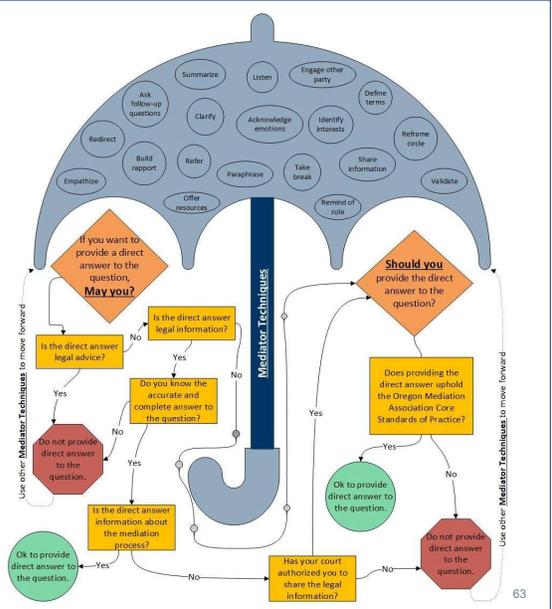
What do you say?



Landlord Tenant – Hypothetical #2

You are mediating a landlord/tenant case involving non-payment of rent. You see that the notice attached to the complaint did not include a Veteran's Statement or a Low-Income Statement. The tenant asks if the Judge will dismiss the case because the notice lacks a veteran's statement or low-income statement to you, and asks you to explain it to the landlord.

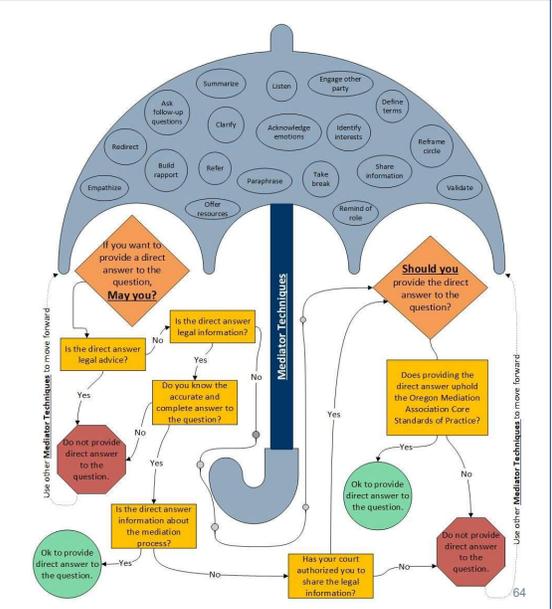
What do you say?



Landlord Tenant – Hypothetical #3

You are mediating a landlord/tenant case involving a for-cause eviction based on tenant's violation of the lease agreement (the landlord claims that the tenant has been leaving garbage in common areas and too many vehicles parked in the parking space). The parties come to an agreement that tenant will clean up the garbage and remove the extra vehicles. The landlord asks you if there is anything else they should include in the agreement before sending it to the judge.

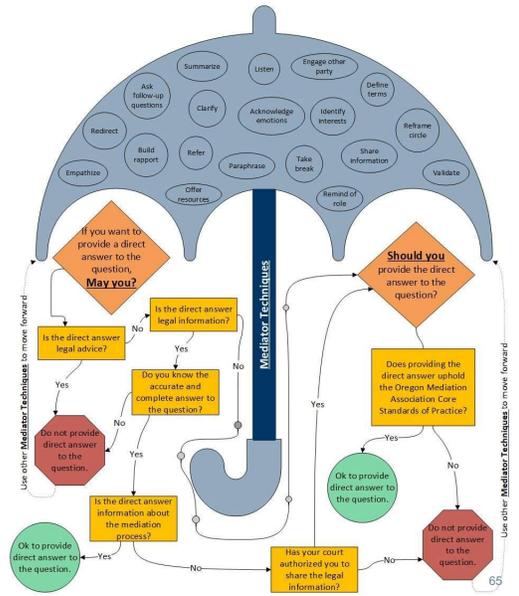
What do you say?



Domestic Relations— Hypothetical #1

You meet with each parent separately at the beginning of mediation. During one individual session, a parent asks you: “Do I have to see the other parent or talk to the other parent directly during mediation?”

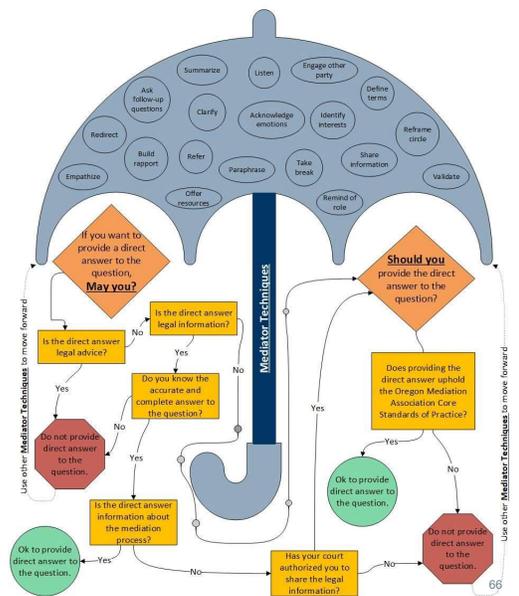
What do you say?



Domestic Relations— Hypothetical #2

During a joint session, a parent asks you: “If we don’t agree on joint custody in mediation, can the judge still order joint custody?”

What do you say?

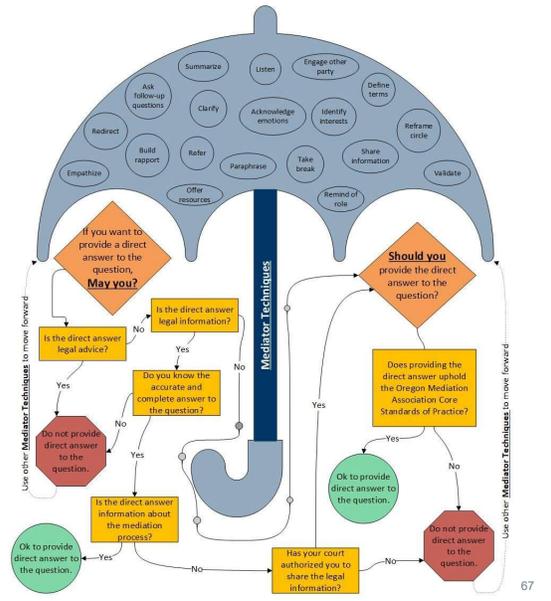


Domestic Relations— Hypothetical #3

During a joint session, one party says, “Wait, what’s the difference between custody and parenting time? I thought custody included physical custody. How does custody work with parenting time?”

The other parent jumps-in and says, “I second that question. I don’t understand the difference between custody and parenting time.”

What do you say?

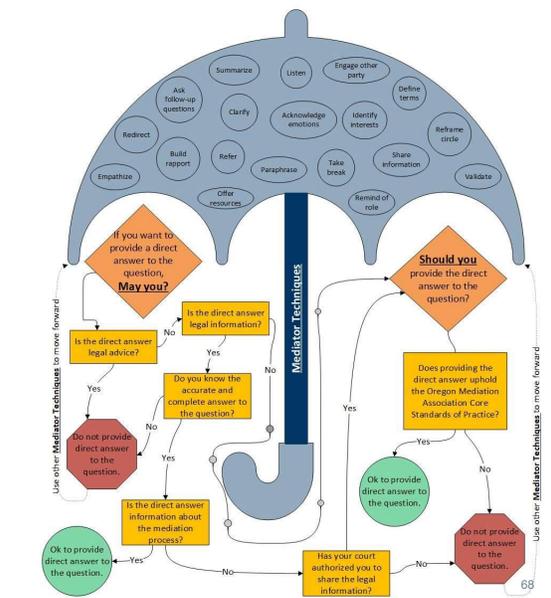


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Domestic Relations— Hypothetical #4

During an individual session, a parent asks you: “How do I convince the judge that it is in the children’s best interest for me to have sole custody?”

What do you say?

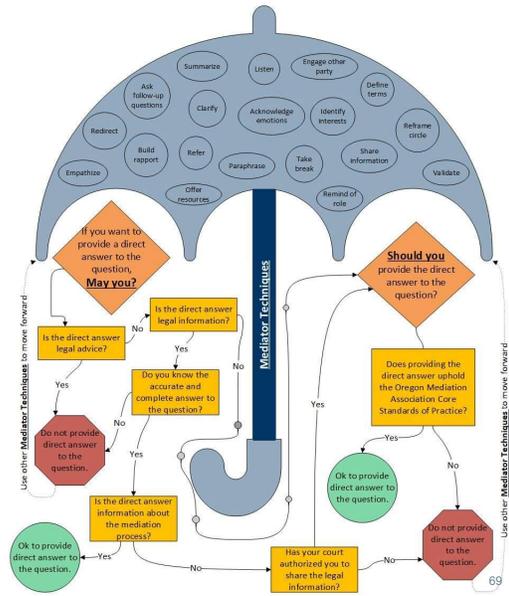


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Domestic Relations— Hypothetical #5

A party in a joint session asks, “How does a judge determine which parent gets custody?”

What do you say?



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Breakout Room Debrief



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Resources for Navigating Legal Advice and Legal Information in Court-Connected Mediation

- Your local court ADR contact
- For generic legal information:
 - Oregonlawhelp.org
 - Oregon Uniform Jury Instructions
 - The Oregon Judicial Department Guide to Divorce and Custody Trials in Oregon.
 - Your local court website may have additional resources
- <https://www.osbar.org/ethics/>
- One pending resource in the works: template text for opening statements/agreement to mediate form
 - (This will likely not be available until summer 2025)
- See list of resources on next slide

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Additional Resources Pertaining to Mediator Ethics

- What if Jon Stewart and Stephen Colbert Reacted to Simon & Rhoades on Imperati on Bush and Folger! Mediate.com (September 2015).
- Ironically, Bush and Folger are Evaluative, Mediate.com (May 2015).
- Veils and Cloaks of Ignorance: Under-used Tools for Conflict Resolution, 30 Ohio St. Journal of Dispute Resolution 45 (2014-15).
- Why Does Anyone Mediate if Mediation Risks Psychological Dissatisfaction, Extra Costs and Manipulation? Three Theories Reveal Paradoxes Resolved by Mediator Standards of Ethical Practice, 29 Ohio St. Journal of Dispute Resolution (2014).
- If Freud, Jung, Rogers and Beck Were Mediators, Who Would the Parties Pick and What Are the Mediator's Obligation, 43 Idaho Law Review 643 (2007).
- Mediator Practice Models: The Intersection of Ethics and Stylistic Practices in Mediation (Excerpts) 33 Willamette Law Review 703 (1997)

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Upcoming Training Opportunity

Mediator Obligations: Come On and Get Ethical!

Presented by: Sam Imperati

Cost: \$35 for Multnomah Bar Association members | \$55 non-members

Date & Time: Wednesday, December 11, 2024, 1:00pm-2:30pm

Location: Remote attendance only via Zoom

This fast-paced session explores the mediator's ethical obligations under ORS Chapter 36, the Uniform Trial Court Rules, and The OMA Standards of Practice... all just in time for your New Year's Resolution! The training objectives are:

- Understand the various ethical frameworks,
- Define the mediator's role (what it is and what it is not),
- Appreciate the ethical ramifications of mediator approaches,
- Explore the ethical challenges with several mediator techniques, and
- Learn from war stories.
- But wait, there's more: a bonus section on confidentiality is included for the holidays. Come and get ethical!

To register and for more information: <https://mbabar.org/education/mediator-obligations--come-on-and-get-ethical-2024/>

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Thank you!

Closing reminders:

- Continuing Education information
 - For OSB Members
 - For non-OSB Members
- Training recording and materials
- Questions from today's Q&A
- Future trainings?

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Questions?

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 971-718-2484

 <https://www.courts.oregon.gov/programs/ADR/Pages/MediatorResources.aspx>