

OREGON FEDERAL EXECUTIVE BOARD'S

# ***Shared Neutrals***

AN ALTERNATIVE DISPUTE RESOLUTION EXCHANGE

# ***ADR Program Guide***

Updated October 27, 2009  
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# **Chapter 1 – Introduction**

## *A description and history of the Shared Neutrals Program*

The Shared Neutrals Program (Program) is a cooperative arrangement between diverse federal and state agencies and local governments (agencies) in the Pacific Northwest region. Each member agency makes a reciprocal agreement to submit requests for alternative dispute resolution services and to share resources cooperatively.

### **Mission**

The Shared Neutrals Program is designed to serve three objectives. The first objective is to provide agencies with low cost and flexible access to sophisticated dispute resolution services. The second objective is to provide disputing individuals with accessible, timely, and confidential neutral services. The third objective is to support a diverse cadre of trained and experienced neutrals (mediators) who mentor less experienced neutrals from other agencies on a collateral duty basis.

Flexibility is a core value for this Program. Individual agencies have a great deal of choice on how they access and use this Program. The benefits an agency derives from the program are intended to roughly approximate its contributions.

### **A Brief History**

**The Oregon Federal Executive Board (OFEB) sponsors** the Shared Neutrals Program to facilitate the use of alternative dispute resolution (ADR) among local, state, and federal governing agencies. Participating agencies may use the Program's cadre of neutrals free of charge and with minimal documentation requirements.

The OFEB adopted the Shared Neutrals Program as a pilot in November 1996, following the model of similar programs. The Program was formally adopted in November 1997. It enjoys a reciprocal agreement with the Intergovernmental ADR Consortium sponsored by the Seattle FEB. Agencies with offices in both regions may use either Program, depending on the availability of neutrals.

As of 2004, the Program has approximately 25 participating agencies, has an active roster of over 40 mediators, and has mediated over 350 cases around the Pacific Northwest Region.

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## ***ADR Services Offered***

### **Mediation**

Mediators (Neutrals) assist two or more parties by facilitating conversation, identifying issues, generating options and drafting settlement documents. Used where parties have a need for an ongoing relationship or want to terminate a relationship in a less adversarial way. Typical cases include: **Workplace** (communication, cross-cultural, interpersonal, multi-party, staff/management) and **EEO** (discrimination, harassment).

Anticipated total case time should not exceed 35 hours (including case development).

### **Facilitation**

Facilitators assist small or large groups with conflict arising from workplace controversy. Example: Define steps towards a goal; Narrow unfocused problems into a list of specific, detailed concerns, with possible solutions for each.

Anticipated total case time should not exceed 35 hours (including case development).

Note: State of Oregon confidentiality guidelines (ORS 36.220 to 36.238) cover all forms of ADR offered by the Program.

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# **Shared Neutrals Program Guide**

## **Chapter 2 – Agency Participation**

*Participating agencies share resources to benefit from low cost, high quality, timely alternative dispute resolution*

### **Agency Agreements**

A formal letter of commitment qualifies an agency to participate in the Shared Neutrals Program. This letter *must* include five key elements.

1. **Cases:** Specify 1) the types of cases the agency *will* submit for requests for services, and 2) any types of cases which the agency will *exclude* from the Program.
2. **Agency Liaison:** Identify an Agency Liaison to the Program, including a brief description of his/her background, particularly as it relates to ADR.
3. **Access to the Process:** Identify which agency personnel are authorized to make requests. Indicate whether all requests must go through the Agency Liaison or whether agency employees may request services directly.
4. **Documentation:** Identify any particular forms that should be used to document ADR processes and who receives copies.
5. **Non-retaliation Statement:** State that the agency will not retaliate against anyone who chooses to participate in, or not participate in, mediation. There will be no retaliation for a party withdrawing from mediation.

This letter *should* also include three other elements:

6. **Contributions:** How the agency plans to contribute to the Program through neutrals, access to conference rooms, funding, etc.
7. **Outreach:** An outline of how the Shared Neutrals Program will be made known and available to interested agency personnel.
8. **Reimbursement of Mediator Expenses:** How the agency will reimburse neutrals. Include what expenses will and will not be covered (travel, long-distance calls, parking, per diem/meals, etc.).

It is the responsibility of the Agency Liaison to provide written notification of any changes to the agreements above. Agency Liaisons may contact the Program Coordinator for help on how to provide this information.

For more information on the role and responsibilities of the Agency Liaison, please see the next chapter. (Also, please see Sample **Letter of Commitment** (*ch. 6*).

### **Benefits**

Sharing resources through participation in the Shared Neutrals Program offers agencies numerous benefits. Participating in this intergovernmental exchange provides low cost access to cutting edge ADR methods.

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### ***Lower costs and reduced risks***

- No charges minimizes administrative costs
- Minimizes lost productivity
- Reduces the risks and costs of litigation
- Protects privacy
- Preserves other options for dispute resolution
- Maximizes potential for agreement and compliance

### ***Access to credible ADR***

- Enhances perception of neutrality and confidentiality in sensitive disputes
- Provides ADR to agencies without trained neutrals on staff
- Offers greater access to pool of competent, diverse neutrals
- Accesses specialized ADR technical expertise
- Allows mentoring opportunities to benefit experienced and less-experienced neutrals
- Assists in developing ADR programs and processes

### ***Collaborative, creative problem solving***

- Enhances work life
- Speeds dispute resolution
- Boosts morale
- Preserves and enhances relationships

## ***Contributions***

The strength of the Shared Neutrals Program lies in its member agencies and the contributions they make. In addition to neutrals, agencies contribute such things as meeting space, administrative support, printing, and funds for training and program coordination.

The Shared Neutrals Program reserves the option to require contributions commensurate with benefits.

## ***Outreach***

Accessibility is key to the success of the Shared Neutrals Program. Here are some ideas for making the program as accessible as possible to your agency's employees.

### **Ideas for Outreach:**

- ✓ Publish information on the Program in a newsletter or online.
  - ✓ Print and post Program flyers on bulletin boards.
  - ✓ Print brochures and make them available throughout the agency.
  - ✓ Invite Program members to give presentations at staff meetings.
  - ✓ Send personnel to OFEB-sponsored training on the Program.
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## ***Participating Agencies as of July 2009***

### **Federal**

Army Corps of Engineers  
Bonneville Power Administration  
Bureau of Land Management  
Department of Veterans Affairs – Medical Center (Portland)  
Department of Veterans Affairs, Regional Office (Portland)  
Environmental Protection Agency  
Indian Health Services  
Internal Revenue Service, Seattle  
Oregon Military Department  
Small Business Administration  
US Attorney, District of Oregon  
USDA – National Agriculture Statistics Services OR SSO  
USDA – Natural Resources Conservation Service  
US Forest Service, Region 6 (Oregon & Washington) & Pacific Northwest  
Research Station

### **State**

Dept. of Corrections, Human Resources, SW Region South (Vancouver, WA)  
Dept. of Social Health Services/, Division of Child Support (Vancouver, WA)  
State of Oregon Executive branch agencies and the Oregon Judicial Department

### **Local**

Centennial School District, Portland  
City of Beaverton (Oregon)  
City of Gresham (Oregon)  
City of Milwaukie  
City of Portland (Oregon)  
City of Vancouver (Washington)  
City of Wilsonville (Oregon)  
Clark County (Washington)  
Evergreen School District  
Portland Community College  
Community Mediation Services (CMS)

### **Tribal**

Columbia River Inter-Tribal Fish Commission

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# **Shared Neutrals Program Guide**

## **Chapter 3 – Logistics**

### **How the Process Works**

*Agencies tailor their use of the Program to suit their needs.*

Agencies have a great deal of latitude in how they use the Shared Neutrals Program. This section outlines a generic description of the Program's elements and procedures. How each of these is used may vary according to the individual preferences of individual agencies, as well as the needs of specific cases.

#### **ADR Processes**

The Shared Neutrals Program supports a variety of ADR methods and styles. All neutrals, regardless of their theoretical framework and style, meet qualifications for training and experience and agree to adhere to Oregon Mediation Association's *Core Standards of Mediation Practice*, September 9, 2000.

##### **Co-mediation model**

Mediation is the most popular ADR option. The mediation model most commonly used in the Shared Neutrals Program is the eight-step facilitative co-mediation model. In co-mediation, the two neutrals begin with an opening statement outlining the mediation process, roles, and rules of conduct. Each party follows with an individual opening statement to describe her/his experience. Each party has a chance to respond in turn with questions and comments. The neutrals next assist in developing an agenda of items for discussion between the parties and then help to guide the negotiation process. The neutrals may meet with each party individually. Finally, neutrals assist in formalizing any agreements that participants reach.

##### **Facilitation Consultation**

In addition to mediation, neutrals may be available to facilitate group work and to serve as consultants in designing conflict management strategies.

#### **Shared Neutrals Message Line**



The Program uses a confidential voicemail message line to facilitate communication between participating agency personnel. The Program Coordinator is responsible for checking messages frequently and responding to calls promptly. Callers are encouraged to leave their name, phone number (including a good time to call), or email address, along with a detailed message. The voicemail system is protected by password; all messages are strictly confidential.

Callers may dial **(541) 225-6348** to reach the Shared Neutrals message line anytime.

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## ***Request for service***

Employees of participating agencies may request services by contacting their Agency Liaison or by contacting the Program directly through the message line. Some agencies require employees to work through the Agency Liaison.

Typically, **parties will contact their Agency Liaison** to inquire about or request Program services. The Liaison will then contact the Program Coordinator, either by email or the message line, to notify the Program Coordinator how contact with involved parties should take place, discuss scheduling parameters and any special needs or concerns. The Program Coordinator will verify that the necessary information (intake checklist) has been covered with each party and will then enter the case into the Program Case Log. In some instances, after speaking with the Agency Liaison, the Program Coordinator may obtain necessary information directly from the parties.

Upon occasion, a party may contact the Program directly through the message line or email. When a party calls to request a neutral, the Program Coordinator will first confirm that the caller is an employee of a participating agency. S/he will then determine whether the Agency Liaison has been or should be contacted, as per agency protocol.

## ***Case Intake***

**Intake** begins when a request for service is made. Intake is defined as the initial contact to request Program information and the service of a neutral. Either the Agency Liaison or the Program Coordinator may do this work. Intake involves the sharing and gathering of information about the dispute and the Program. Parties can then make an informed decision about whether to mediate through the Program or to pursue other options, and the Agency Liaison and Program Coordinator can decide if the case is appropriate for the Program. All cases are screened to determine if they meet Program guidelines and agency protocol. The purpose of intake is not to explore the conflict in detail, but to gather and to provide general information.

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## **Intake Checklist**

- Is at least one party an employee of a participating agency?**
- Do parties need to talk to Agency Liaison?** *Verify agency protocol*
- Name, phone number, email, and mailing address of each party?** *Privacy Concerns?*
- Do parties understand that participation is voluntary and confidential?**
- What are the scheduling parameters for the parties?** *Vacations, times, days, deadlines?*
- Who will be at the mediation?** *Representatives, etc?* Eliminate surprises.
- Do parties have any special needs or concerns?** *Gender, cultural, interpreter, physical disability, etc.*
- Do all the parties understand how the Program works?** *Mediation may or may not reach resolution.*
- Have all parties received Program materials?** *What is preferred address and mode of delivery? Home address? E-mail? Etc.*
- Has each party received the consent to mediate form?** *Each party must sign prior to any mediation session*
- Any questions?** *Inform parties that they will hear from a neutral*

The product of the intake process is a case profile. This includes the names and contact information for each party (at least a phone number and mailing address). It also includes a brief outline of the dispute and information on scheduling parameters. If an Agency Liaison has done the intake, the case profile is forwarded to the Program Coordinator.

The Program Coordinator then assigns a case number and assigns a neutral for case development. When the case is assigned to a neutral, the Program Coordinator will pass along the case profile with contact information.

### **Policy on how cases are assigned**

Because time is of such a high priority in these cases, the Program Coordinator will assign the cases to the first qualified primary mediator to respond. Party special requests and special circumstances will still be honored.

Parties have the option of declining the service of any particular neutral.

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## ***Agency Liaison role & responsibilities***

Agency Liaisons who perform intake are responsible for following Program guidelines and agency protocol. When an Agency Liaison first receives a call requesting service, s/he will screen the case to determine if it is appropriate for mediation. S/he then notifies the Program Coordinator about the case. Liaison should provide party names, addresses, phone numbers & e-mail addresses (and preferred method of contact); describe the general nature of the conflict, the degree of urgency, and available dates (if possible) to Program Coordinator.

### ***Specific responsibilities of Agency Liaison***

- Provide Program Coordinator with a Agency Request For Membership and Agreement Form
  
- Coordinate logistics
  - Secure and schedule rooms for mediation sessions
  - Arrange reimbursements to neutrals for travel expenses
  - Troubleshoot collaboration with Program
  
- Coordinate outreach efforts for the Shared Neutrals Program
  
- When performing intake
  - Inform Program Coordinator of all contacts
  - Ensure that Program and agency guidelines are met
  - Distribute Program materials

## ***Staffing***

The Program Coordinator is hired by and reports to the Shared Neutrals Subcommittee. When a funded position is not available, members appoint a Program Coordinator on a rotational basis from among the neutrals serving the Program.

### ***Program Coordinator***

The Program Coordinator shares responsibility for performing intake with Agency Liaisons. S/he performs intake when Agency Liaisons cannot because of a conflict of interest and when agencies have not delegated the task to the Agency Liaison.

It is the primary responsibility of the Program Coordinator to oversee the process of gathering and providing information about ADR options, and specifically the Shared Neutrals Program, to foster informed choices and appropriate use of resources. In some cases, s/he may refer callers to other sources for information and assistance regarding dispute resolution.

The Program Coordinator serves as a primary Program liaison, in collaboration with the Chair of the Subcommittee. In addition to tracking case-related calls, the Program Coordinator provides information about the Program and may refer callers to subcommittee members or other Agency Liaisons.

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Once the case profile from the intake process has been logged, the Program Coordinator requests and assigns neutrals.

### ***Specific responsibilities of Program Coordinator***

- Monitor the message line voicemail system
  - Respond to calls promptly
  - Provide Program information
  - Make referrals to appropriate resources
  - Record contact and case information
  
- Coordinate and oversee the intake process
  - Work in collaboration with the Agency Liaisons
  - Ensure timely and consistent response to requests
  
- Make neutral assignments
  
- Prepare and distribute Subcommittee agendas and minutes
  
- Maintain working files
  - Instructions for message line voicemail system
  - Intake instructions
  - Case logs
  - Intake forms with case profiles
  - List of participating Agency Liaisons
  - Letter of commitment from each agency
  - List of Program neutrals
  - Profile/biography and contract for each neutral
  - Neutral assignment tracking form
  
- Assist with Program evaluation
  - Return case log information to evaluation committee
  - Forward evaluation comments to Subcommittee Chair

### ***Primary Mediator role and responsibilities***

**Case development** is the detailed work involved in preparing for and conducting the mediation. This usually involves a series of contacts. The Program Coordinator (via the Agency Liaison) will generally provide a brief outline of the conflict, the scheduling parameters, and special concerns of the involved parties. Upon accepting the assignment, the Primary mediator will receive the case profile, which includes the case number, an outline of the conflict, and a list of all involved parties and their contact information. This list may include others who have a peripheral interest in the conflict and its resolution, such as managers and Agency Liaisons.

The Primary mediator contacts each of the parties involved in the dispute to explore her/his needs and concerns. This work allows the primary to obtain as much information as s/he deems necessary to design an appropriate process and to select a Co-mediator. The primary will contact parties within 48 hours of receiving the case assignment, and should attempt to hold the mediation session within two weeks of receiving the assignment.

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## ***Forms used in mediation***

As a matter of policy, the Shared Neutrals Program does not retain case materials, such as work notes. Neutrals serving the Program sign a contract and agree to comply with Program procedures for documentation. Chapter four describes these requirements in more detail.

The Program Coordinator maintains updated versions of each of the following forms. Neutrals are provided with a copy of each form in their mediation packet and are responsible for making sufficient copies for their own use.

### **Consent Form**

Each party, each mediator, and any observers must sign a **Consent to Mediate** form prior to each mediation session. Some agencies provide their own version of this form.

### **Mediated Agreement**

Neutrals assist parties in formalizing any resolutions reached in a mediation session by crafting language and serving as scribe. It is the responsibility of the primary neutral to identify, prior to any mediation, who will receive copies of a mediated agreement, based on that agency's protocol. Some agencies provide their own version of this form. The Shared Neutrals Program does not receive copies of the mediation agreement.

### **Evaluation Form**

Primary mediators are responsible for distributing an evaluation form to each party at each session. A pre-addressed, postage-paid envelope is to be supplied with each form to encourage response. This feedback is crucial for Program evaluation and improvement. Neutrals are encouraged to explain the importance of this feedback for Program evaluation. If evaluations have not been received within two weeks of case closure and the parties' e-mail addresses are available, the Program Coordinator may make another request by e-mail (attach evaluation form).

### **Mediator Debrief**

Each Mediation Team is responsible for completing a Mediator Debriefing Form after each mediation session. This should be done as a Team, with the intent of being an honest evaluation of mediator skills, adherence to Core Standards of Practice, and key Lessons Learned. The Debrief form should be returned, along with the rest of the mediation paperwork, to the Program Coordinator at the close of the case.

Each primary mediator is responsible for keeping the Program Coordinator informed of the status of the primary's cases, including their dispositions.

### **Primary Mediator Checklist**

Each primary mediator is responsible for completing (and returning) a checklist for case documents to facilitate Program evaluation.

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# Shared Neutrals Program Guide

## Chapter 4 – Neutrals

*Neutrals bring different ADR styles and techniques to the Program*

The neutrals shared through this Program are employees and volunteers from participating agencies. They bring diverse professional and cultural backgrounds to the Program. Collectively, they possess a broad range of technical expertise and different ADR styles. This wealth of training and experience is one of the greatest assets of the Program.

This exchange supports the professional development of agency neutrals through mentoring. The Program’s use of the co-mediation model is designed in part to provide opportunities for more experienced neutrals to work with less-experienced neutrals for their mutual benefit.

### Neutral Roles

<p><b>Primary Mediator</b></p>	<ul style="list-style-type: none"> <li>• Meets minimum requirements and has extensive mediation experience and is highly recommended by their references</li> <li>• Assumes primary responsibility for cases</li> <li>• Selects co-mediator based on needs of case (may occasionally work solo when needed)</li> <li>• Assures thorough case development and communication with Agency Liaison</li> <li>• Assures coordination of arrangements for mediation sessions (<i>per protocol &amp; procedures, chapter 6</i>)</li> <li>• Assures prompt return of case documentation to the Program Coordinator (including party evaluations, mediator critiques and mediator checklist).</li> <li>• May serve as mentor to other mediators through the Mentor Program</li> </ul>
<p><b>Co-Mediator</b></p>	<ul style="list-style-type: none"> <li>• Meets minimum requirements</li> <li>• Is responsible for handing in documentation of their own hours, mediator critiques and travel reimbursements.</li> <li>• May request moving to Primary Status (<i>see Administrative Procedures, chapter 6</i>).</li> </ul>
<p><b>Trainee</b></p>	<ul style="list-style-type: none"> <li>• Meets all minimum requirements <u>except</u> does not have sufficient mediation experience</li> <li>• MUST work with designated mentor* to get experience and exposure (i.e., observations, practice sessions, etc.)</li> <li>• Must notify Personnel Standing Committee when s/he and their mentor feel s/he is ready to become a Co-Mediator.</li> </ul>
<p><b>Inactive</b></p>	<ul style="list-style-type: none"> <li>• A mediator may take a leave of absence.</li> <li>• To return from inactive status, the mediator must notify their Agency Liaison who, with the Personnel Standing Committee, will determine his/her readiness to return as an active mediator</li> </ul>
<p>* A Trainee must have a mentor, but <u>any</u> category of mediator can request a mentor. See: <b>Mentor Program</b> later in this chapter.</p>	

**ALL categories of Shared Neutrals mediators are responsible for:**

- A mutual debriefing of the mediation team, using the Mediator Debrief Form, after each mediated session (*see Mediator Debrief – Chapter 6*).
- Fulfilling Professional Development expectations and submitting completed *Training & Activity Log (Chapter 6)* to the Personnel Standing Committee after each calendar year.

## **Selection Process**

Applicants from a variety of professional backgrounds who use diverse ADR techniques are encouraged to apply.

To apply, applicants must meet minimum requirements and submit an application (*see Neutral Profile in chapter 6*) detailing their training, experience, preferred style, methods of dispute resolution and three references to the Personnel Standing Committee or Program Coordinator.

### **Minimum Requirements**

#### **Policy 4.01 -Mediator Applicant Minimum Requirements (6/00)**

New applicants to the Shared Neutrals roster must meet the following requirements:

- ◆ Must be an employee or trained volunteer of a member agency;
- ◆ Must have completed 40 hours of basic mediation training;
- ◆ Must have some previous experience as a mediator or facilitator;
- ◆ Must agree to pursue 15 hours of Professional Development annually;
- ◆ Must agree to mediate a minimum of 3 workplace disputes per year (2 of which must be for Shared Neutrals), or to mediate a minimum of 15 hours per year (10 hours of which must be for Shared Neutrals); and
- ◆ Must agree to adhere to the Oregon Mediation Association’s Core Standards of Mediation Practice, adopted September 9, 2000.

After being interviewed by the Personnel Standing Committee, references will be checked, and applicants may be asked to perform a mock mediation to assess skills and style. If accepted, they are assigned to the appropriate category (Primary, Co-mediator or Trainee). If assigned directly to the Primary category, they must mediate their first case with another Shared Neutrals Primary Mediator.

Once accepted, mediators sign a contract (*See Mediator Contract in ch. 6-Forms*) outlining the Program’s standards of practice, and are oriented by the Program Coordinator (or other Personnel Standing Committee representative).

The Program Coordinator maintains a mediator roster, along with a profile/biography sheet for each mediator, and assigns cases based on case needs. Neutrals are not generally assigned to cases in their own agencies, unless requested by both parties to a dispute. (Note: as of 2003, this subject is under review by the Subcommittee.)

## **Standards of Practice**

Neutrals agree to adhere to the Oregon Mediation Association’s Standards of Mediation Practice, adopted September 9, 2000. For further discussion of these standards, see <http://www.omediate.org/Standards>

### **Mediators’ Ethical Standards**

#### **I. Self Determination**

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A mediator shall respect and encourage the self-determination of participants in decisions regarding what process to use and regarding whether, and on what terms, to resolve their dispute or issues.

## **II. Informed Consent**

A. The mediator shall provide mediation services only when the participants have given their informed consent to participate in the specific mediation process offered by the mediator.

B. The mediator shall disclose to the participants all information about the mediator and his/her services necessary to enable the participants to make an informed decision whether to use or continue the services of the mediator and whether to participate in the specific mediation process. The mediator shall explain the mediation process and the roles of the mediator, the participants, and their representatives. The mediator shall also disclose information regarding conflicts of interest, relationships, confidentiality and fees as specified in these Standards.

C. The mediator shall make reasonable efforts throughout the mediation to assure that the participants are free and able to make choices regarding participation in mediation generally and regarding options for reaching agreement.

## **III. Impartial Regard**

The mediator shall demonstrate and maintain a commitment to impartial regard by serving all participants at all times. The mediator shall not have any personal stake in the outcome of the mediation. Where the mediator's ability to give impartial regard is in question and that question cannot be resolved s/he shall decline to serve or shall withdraw from serving as mediator.

## **IV. Confidentiality**

A mediator shall maintain the reasonable expectations of the participants with regard to confidentiality, except where confidentiality or disclosure is required by law

## **V. Competence**

A. A mediator shall mediate only when s/he has the necessary knowledge, skills, and abilities to satisfy the reasonable expectations of the participants.

B. The mediator shall exercise his/her judgment and discretion as to whether s/he is competent to mediate a particular dispute. When the mediator believes that s/he lacks the knowledge, skills and ability to mediate a particular dispute, s/he shall request appropriate assistance, withdraw or decline to serve.

## **VI. Encourage Good Faith Participation**

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The mediator shall encourage participants to participate in good faith. The mediator shall discontinue the mediation if, in his/her reasonable judgment, a participant's bad faith, dishonesty, or nondisclosure is so significant that the fairness and integrity of mediation cannot be maintained.

## **VII. Fees**

A. The mediator shall fully disclose and explain the basis of any compensation, fees, and charges to the participants.

B. A mediator shall not charge contingent fees or base fees on the outcome of a mediation.

C. A mediator shall not accept a fee for referral of a matter to another mediator or to any other person.

## ***Professional Development***

### ***Expectations of Professional Development***

Mediators must maintain minimum levels of participation and professional development to be considered 'active' mediators in the Program. The general expectation is that they will pursue 15 hours of continued professional development annually. They must submit the Training & Activity Log at the end of each calendar year. (*see Training & Activity Log, ch. 6*).

This allows the Program to track mediators' development and involvement level, as well as giving mediators the chance to renew their commitment to the Program annually.

Shared Neutrals will provide periodic training opportunities to assist in this development.

### ***Mediator Competence***

Neutrals bring different ADR styles and techniques to the Program. Occasionally, this may lead to differences in opinion between mediators. To assist in this, mediators debrief with each other after each mediation (see Mediator Debrief Form in *Program Forms*). If inter-mediator concerns persist, the Personnel Committee is authorized to address them. (*see Procedure 4.0, ch. 6*.)

### ***Mentor Program***

Established in 2002 by the Training Standing Committee, the Mentor Program is a partnership convened for the purpose of enhancing learning, for any category of mediator. A mentor may be requested at any time, by any category of mediator (Primary, Co-Mediator, Trainee, or returning from Inactive status). The role of the mentor mediator is to actively assist the requesting mediator to achieve general or specific learning goals, and to develop his or her own unique potential as a mediator. Information about the Mentor Program is available on our web site, or through the Training Standing Committee.

Mediators interested in becoming a Mentor should fill out a Mentor Profile (*ch. 6*), and return it to a member of the Training Standing Committee.

The Personnel and Training Standing Committees work jointly to identify possible Mentors for Trainees.

Administrative procedures for establishing mentoring relationships can be found in Chapter 6, under *Procedure 7.00-Administrative Protocol for matching Mentors & Trainees*.

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## ***Protocol for Trainees***

(Procedure 7.01, established November 2004)

- The Trainee should observe at least one case with any Shared Neutrals mediation team;
- The Mentor debriefs with the Trainee about their observation experiences, and mediates at least one case with the Trainee;
- After mediating at least one case with their Mentor, with the approval of the Mentor, the Trainee may mediate with other Primary Mediators;
- It is up to the mentor- trainee team to ascertain when the Trainee is ready to move to 'Co-mediator' status on the Mediator Roster, and when they can mediate without their Mentor's approval;
- The Mentor must inform the Program Coordinator, via e-mail or letter, that the Trainee's status should be changed to "Co-Mediator" on the roster.

## ***Promoting Co-Mediators to Primary Mediator Status***

Co-mediators who feel experienced enough to apply to the Primary roster must follow procedures outlined in *Procedure 4.02 (Chapter 6)*.

## ***Mediation by the Program Coordinator***

The Program Coordinator is hired by and reports to the Shared Neutrals Subcommittee. If s/he chooses, the Program Manager may apply to the Mediator Roster. Responsibilities and limitations of mediation by the Program Coordinator are outlined in Policy 4.04 (*Chapter 6*).

## ***Observers in Mediation***

All people connected with Shared Neutrals will be permitted to observe when appropriate, including Subcommittee members, liaisons, the program coordinator, mediators and mediator-applicants with an application on file. The primary mediator will determine if observers are appropriate. A maximum of two persons can observe, and observers cannot observe mediations with their own agency. (6/00) (*see full Policy/Procedure 6.05 (Chapter 6)*).

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# ***Shared Neutrals Program Guide***

## ***Chapter 5 –Committee By-Laws & Structure***

### **Revised Bylaws**

#### **Oregon Federal Executive Board Shared Neutrals Program**

***Approved by Shared Neutrals Subcommittee 9/1/2004***

### **Article I Governance**

- A. The Shared Neutrals program (Shared Neutrals) is a Subcommittee of the Oregon Federal Executive Board (OFEB) and serves at the discretion of the OFEB. The daily affairs of the Shared Neutrals program shall be managed by a Board of Directors (Board).
  - B. The Board has the power to make and alter any Bylaw, including fixing or changing the number of officers and/or the duties of the officers.
  - C. Only Board members may serve as officers; they may serve as Chair or Vice Chair only if they have been Board members one year or longer at the time of election.
  - D. The numbers of Board members shall not be fewer than seven nor more than twelve members.
  - E. Board members are elected to serve two-year terms.
  - F. The Board shall be selected from either (1) a member agency or (2) the mediation community of the Portland metropolitan area at large. No more than two members of the Board shall be from the latter group, and no more than two members shall be from one member agency.
  - G. New Board members shall be selected in the same manner as other decisions as described in Article II below.
  - H. All elected Board members shall have all rights and responsibilities as defined by these Bylaws.
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- I. The Board may consider diversity in deciding who should be chosen for the Board, including diversity of mediation practice; geography; agency representation; union affiliation; ethnicity, race and gender; and other factors.

## **Article II Decision Making**

- A. Fifty-percent of the non-vacant Board positions shall constitute a quorum for the transaction of Shared Neutrals business. The Board may transact any business and exercise all of its powers whenever a quorum is present, except actions that seek to amend the Bylaws of the Board shall also follow the requirements of Article II Section F below.
  - B. Consensus shall be used as the first method in making a decision. If consensus is not arrived at, and timeliness is not a concern, the item will be placed on the agenda for an upcoming Board meeting and an attempt will be made at further consensus. If consensus cannot be reached and timeliness is an issue, a vote will be taken. The Chair shall be the arbiter as to whether reasonable discussion has been satisfied and whether timeliness is important to the issue. If timeliness is an issue, a vote will be taken before the close of the Board meeting.
  - C. Consensus is defined as all members present either (1) agreeing with or (2) willing to accept approval of the motion being considered.
  - D. If a vote is taken during a Board meeting at which a quorum is present, an affirmative vote of half of the Board members present plus one shall be an act of the Board except in matters where the Bylaws may be modified (see section F below).
  - E. The Chair may call a vote by e-mail in those instances where timeliness is an issue and there is no reasonable expectation the entire Board can convene in the necessary time. A vote by e-mail must (1) be clear as to the issue being decided; (2) be presented by e-mail to the entire Board; and (3) specify the deadline by which Board members should respond. In the event a Board member does not have e-mail capability, the Chair shall make reasonable efforts to provide that member with the same information by telephone or mail. In order for a motion to carry by e-mail vote the motion must be affirmed by at least half the standing Board members plus one. In the event of an e-mail vote, the Chair or his/her designee shall keep a paper record of the vote for at least one year.
  - F. Any proposed amendment or revocation of any Bylaw must be submitted to all Board members in writing at least two weeks in advance of the discussion of the item. The Board may amend or revoke any Bylaw by an affirmative vote of at least three-quarters (3/4) of all Board members present at any Board meeting at which a quorum exists.
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- G. Bylaws may only be added, modified, or revoked at a meeting of the Board in which a quorum is present. E-mail votes shall not be used for deciding revisions of Bylaws.

### **Article III Officers**

- A. The Board shall have a Chair and a Vice Chair elected as indicated in Article I above.
- B. The Chair shall be the principal executive officer of Shared Neutrals and shall supervise all the business affairs of Shared Neutrals. He or she shall preside over all Board meetings. He or she may sign any documents or instruments that the Board authorizes except those documents which the Board has delegated to another. The Chair shall perform all duties incident to the office of the Chair and such other duties as may be prescribed to him or her by the Board, including supervision of any persons employed to conduct Shared Neutrals business.
- C. The Vice Chair shall perform all the duties of the Chair in his or her absence, and when the Vice Chair is acting in the Chair's capacity shall have all the powers and be subject to the same restrictions as the Chair.
- D. The Board shall elect a Chair and a Vice Chair at the first regular meeting of the Board every other calendar year beginning in the year 2003. The Chair and Vice Chair will serve a two-year term and may repeat in either office no more than one consecutive term. Chair and Vice Chair shall be selected in the same manner as other decisions as described in Article II above.

### **Article IV Removal and Vacancies**

- A. Any officer or Board member elected or appointed by the Board may be removed by the Board, whenever, in its judgment, the best interests of Shared Neutrals would be served thereby.
- B. A vacancy in any office because of resignation, removal, disqualification, death, or otherwise may be filled by appointment by the Board at the next scheduled board meeting for the unexpired portion of the term.

### **End of by-laws**

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### ***Subcommittee Responsibilities***

- **Coordination of outreach and marketing efforts to member and prospective member agencies;**
- **Administrative oversight;**
- **Selection and supervision of Program Coordinator, neutrals, and all other Program personnel;**
- **Coordination and cooperation with Agency Liaisons;**
- **Development, refinement, and oversight of case management procedures;**
- **Data collection and analysis;**
- **Program development and evaluation;**
- **Reporting to the Oregon Federal Executive Board.**

### ***Subcommittee Meetings***

The Subcommittee will normally meet once a month. To the extent possible, this meeting will be scheduled at a consistent time and place.

Notice for the subsequent meeting will be set at each meeting. The Program Coordinator will send a meeting reminder and request for agenda items to all members at least one week in advance.

Special meetings may be called by the Chair or by request in writing from any four members upon two weeks notice.

The Program Coordinator will document and distribute documentation of Subcommittee activity. This documentation includes meeting agendas, minutes, and revisions to written materials. If the Program Coordinator is unavailable, the Chair will appoint a member to carry out the secretarial duties.

### ***Subcommittee Attendance***

The Subcommittee expects members to attend all regular meetings. Members who cannot attend a meeting are encouraged to send an alternate who is familiar with mediation and current issues. Alternates may vote on some matters but cannot block consensus.

Members who miss three consecutive meetings may be subject to review by the Subcommittee. This review may include discussion of dismissal. The Chair will notify members of dismissal.

### ***Subcommittee Election Process***

The Subcommittee will interview prospective members. After discussion of the candidate, the Subcommittee will come to consensus on the candidacy. A prospective member will not be present during discussion of her/his candidacy. The Subcommittee will notify the candidate within a week of her/his acceptance or rejection by the Subcommittee.

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## ***Subcommittee Norms***

Subcommittee members agree to the following norms:

- Meetings will start on time;
- Members will come to meetings prepared, actively participate in discussion, and will fulfill commitments to the best of their ability;
- Members will prepare alternates prior to meetings;
- Alternates may vote on some matters, but may not block consensus;
- Each member will obtain the authority needed to effectively represent her/his agency's view; and
- All reasonable effort will be made to provide members with materials prior to meetings.

## ***Standing Committees***

Any Subcommittee member may volunteer to serve on any committee. Committees also welcome other program participants and, in certain instances, members-at-large. As of October 2001, current Standing Committees are:

- **Personnel committee**
- **Training committee**
- **Outreach & Marketing committee** (includes Liaison committee)

### ***Personnel Committee – description & responsibilities***

The **Personnel Committee** is responsible for recruiting, selecting, evaluating, and maintaining the cadre of neutrals. It is also responsible for addressing expressed concerns about mediator performance. (More detail in the administrative procedures section of chapter 6.)

### ***Training Committee – description & responsibilities***

The **Training Committee** is responsible for planning, implementing and overseeing training needs of the Program.

Specific responsibilities of the Training committee:

- ◆ Identify training needs, select topics and arrange for training
- ◆ Design and implement a mentoring "program"
- ◆ Assist with training needs for individual mediators as requested by personnel committee

### ***Outreach and Marketing Committee – description & responsibilities***

The **Outreach and Marketing Committee** is responsible for advertising the Program to agencies and assisting agencies in joining. The **Liaison Committee** is a subset of the Outreach & Marketing committee, and responsible for promoting effective working relationships between Agency Liaisons and the Program Coordinator.

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# **Shared Neutrals Program Guide**

## **Chapter 6 – Appendices**

### **Contents:**

- **Description of the documents used for outreach, case management, and program evaluation**
- **Contact information for Participating Agencies, Subcommittee and other Program Contacts**
- **Administrative Policies & Procedures:**
  - Personnel
  - Subcommittee
  - Administrative
  - Training

The forms and document templates described in this section may be obtained via email from the Program Coordinator. They may also be available on-line at [http://www.oregonfeb.us/ofeb\\_pages/ofeb\\_sharedneutrals.htm](http://www.oregonfeb.us/ofeb_pages/ofeb_sharedneutrals.htm)

**Case numbers should be filled out on all forms where indicated.**

### **FORMS NEEDED FOR MEDIATION SESSION**

**Consent to Mediate** – This agreement to mediate must be signed by each party and each mediator prior to beginning any mediation (can also be used as a basic *opening statement*).

**Checklist for Primary Mediator** – A primary mediator completes and returns to the Program Coordinator a checklist for each case to facilitate Program evaluation.

**Mediated Agreement** – Mediators use this form to help parties memorialize any agreements reached during a mediation. The form is to be filled out by mediators and signed by each party and mediator when agreement is reached. One copy is distributed to each party. Mediators do not retain a copy. This agreement might include listing specific others who are to receive a copy of the agreement (i.e., EEO Counselor, etc.).

**Evaluation** – This form is distributed to each mediation participant, along with a pre-addressed, postage-paid envelope (Send to Program Coordinator.)

**Mediator Debriefing** – Upon conclusion of each mediation session, mediator will jointly complete the Mediator Debriefing form. Be honest. Be consistent. What you tell each other should be consistent with what you put on paper. **New, 10/04:** Only 1 form needs to be completed for each mediation session. The form should be completed from the perspective of reviewing the **mediation team**.

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**Opening Statement Checklist** (optional) – developed by Kim Howell and Maria Iwasyk, 2002.

### ***AGENCY/LIAISON FORMS***

**Agency Request for Membership and Agreement** – This formal letter of commitment qualifies an agency to participate in the Shared Neutrals Program. Chapter two describes the elements of the letter.

**Liaison Checklist** – modified version of Intake Checklist to aid Agency Liaisons in case intake.

### ***ADMINISTRATIVE FORMS***

**Case Log** – The Program Coordinator uses this form to track cases.

**Intake Form** – The Program Coordinator uses this form to coordinate service delivery and to facilitate Program evaluation.

**Intake Checklist** – This checklist is a resource for those doing case intake.

**Neutral Profile** – This is the form used by neutrals to apply to participate in the Program.

**Party Letter** – This letter is sent to each party during intake. It provides information about how to most effectively prepare for the mediation, clarifies roles and expectations, and confirms the voluntary nature of the process. Generally a brochure and a copy of the Consent to Mediate form accompany the letter.

***Mentor/Trainee Roles*** – *This form describes the Mentor/Trainee relationships and suggests ways to set learning objectives.*

**Mentor Profile** – This is the form developed by the Training Standing Committee in 2002. Neutrals who are interested in mentoring other neutrals should complete this form at return it to the convener of the Training Committee (Diane Williams, USFS, at this writing, 5/19/03)

### ***MEMOS OF UNDERSTANDING***

**Neutral Contract** – To serve the Program, each neutral signs a contract outlining standards of practice. These are described in chapter four.

**Training & Activity Log (new 2003)** – Each neutral use this form to provide information about their mediating, training and continuing education/experience to the Training and Personnel standing committees on an annual basis. This form serves as a level of quality assurance to the Program. It also provides a way for neutrals to decide if they can meet the requirements of participation in the Program each year.

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**Agency Letter of Commitment** – This sample letter of commitment qualifies an agency to participate in the Shared Neutrals Program. Chapter two describes the elements of the letter.

***LISTS OF CONTACT INFORMATION***

**Agency Roster** – Contact information for participating agencies and their designated Agency Liaison. Outlines any agency-specific case procedures.

**Mediator Roster** – Contact information for primary and co-mediators (available to neutrals).

Current Policies & Procedures  
updated 10/04/2004

**Personnel Standing Committee:**

Procedure 4.00 - Addressing concerns with mediators. (accepted 5/11/00)

Procedure 4.01 - Criteria and Selection of new mediators (6/00)

Procedure 4.02 – Co-Mediators to Primary Roster

Procedure 4.03 – Applying directly to the Primary Roster

Procedure 4.04 - Mediation by Program Coordinator (2/7/01)

Procedure 4.06 - Mediator Debriefing (5/00, updated 10/04/04)

Policy 4.07 – Establishment of Trainee Roster (2/6/02)

**Subcommittee**

Procedure 5.00 – Subcommittee Meetings

Procedure 5.01 – Subcommittee Attendance

Procedure 5.02 – Subcommittee Dismissal

Procedure 5.03 - Standing Committees - Description & Responsibilities

**Administrative:**

Procedure 6.01 Where to store Consent to Mediate Forms, and who has access to them (3/7/01)

Procedure 6.05 - Observers in Mediations

**Training Standing Committee:**

Policy 7.00 – Establishing the Mentor/Trainee Relationship (2002, updated 10/04/04))

Procedure 7.00 – Administrative Protocol for matching Mentors & Trainees (updated 10/02/04)

Procedure 7.01 – Protocol for All Trainees (10/04/04)

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## **POLICIES & PROCEDURES -- PERSONNEL**

### **Procedure 4.00 - Addressing concerns with mediators.**

Goal: educate and help improve, while attempting to ensure that quality services are provided to clients

#### **PROCEDURE:**

1. The first level of intervention should be made as part of the debriefing process by the mediator who has the concern
2. Lingering concerns should be brought to the attention of the Program Coordinator and/or the Personnel Subcommittee.
3. Program Coordinator will obtain specifics of perceived problem – asking for specifics of behavior
4. Program Coordinator will bring to attention of Personnel subcommittee
5. Two members of the Personnel subcommittee, both of whom shall be mediators, will meet with the mediator under review and determine what standard the mediator is violating, or what behaviors that are at issue. (They will not divulge the source of the “complaints.”)
6. If the mediator agrees that s/he has a problem with that standard/behavior, the Personnel folks will attempt to provide a coaching experience to help the mediator meet the standard. Coaching may include actual verbal coaching, additional training, and/or mock mediations.
7. If the mediator does not agree that there is a problem with his/her behavior, or if a problem persists after having coaching, the Personnel subcommittee will provide a mock mediation designed to determine whether the mediator meets the particular standard in question. The mock will have role players who are mediators from outside the Shared Neutrals Program, and the two Personnel subcommittee members will evaluate the mock.
8. If the mediator passes the mock, s/he will remain on the roster. If /she does not pass, s/he may resign or s/he will be removed from the roster.

### **Procedure 4.01 for Criteria and Selection of new mediators**

- ◆ All applicants who meet minimum qualifications will have an interview.
- ◆ All applicants passing the interview will have 3 references checked.
- ◆ Some applicants may be required to pass a mock mediation.
- ◆ If selected, applicant must sign a Shared Neutrals contract and attend an orientation with the Program Coordinator.

### **Procedure 4.02 – Co-Mediators to Primary Roster**

Co-mediator desiring promotion to Primary list submits an expression of readiness to the Program Coordinator.

- ◆ Co-mediator requests recommendations from three primary mediators who have worked with co-mediator. Recommendations are forwarded to the Program Coordinator.
  - ◆ Program Coordinator reviews critiques and evaluations from recent cases the co-mediator has participated in. Personnel subcommittee reviews all information and promotes co-mediator when appropriate.
  - ◆ Co-mediator mediates one more Shared Neutrals case with a primary (“mentor”) mediator, but this time the co-mediator assumes the responsibilities of a primary mediator (listed above).
  - ◆ If both the established primary and the co-mediator agree that the co is ready for promotion, the primary and the co-mediator will so notify the Program Coordinator.
  - ◆ Program Coordinator makes adjustment to Roster and communicates change to mediators, liaisons, and Board members.
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#### **Procedure 4.03 – Applying directly to the Primary Roster:**

If the Personnel subcommittee determines that an applicant has sufficient experience to warrant being moved to primary mediator status, the following steps will occur:

- ◆ The Personnel Committee will inform the Program Coordinator that the candidate can be promoted to primary after one session, pending a satisfactory debriefing critique by the primary mediator at that session.
- ◆ Once the candidate has received a mediation assignment (as co-mediator), the Program Coordinator will notify the primary mediator that the candidate is being considered for expedited primary mediator status, and ask the primary to keep this in mind when filling out the debriefing critique.
- ◆ After the candidate's first mediation, the Program Coordinator will review the debriefing critique and any party evaluations, and contact the primary mediator to determine whether the candidate seemed ready to become a primary. If there are any problems, the Program Coordinator will refer them to the Personnel subcommittee. If there are no problems, the Program Coordinator will ask the candidate whether s/he feels comfortable becoming a primary. If the candidate agrees, and all evaluations are positive, the Program Coordinator will add the candidate to the primary mediator roster.

#### **Policy 4.04 - Mediation by Program Coordinator**

It is understood and agreed that mediation is not a responsibility of the Program Coordinator position and not an expectation or a requirement of the job. The subcommittee's intent is to offer the Program Coordinator the same opportunity enjoyed by other Federal employees.

##### **Limitations on Mediation by Program Coordinator**

- ◆ must meet the Shared Neutrals' requirements for a mediator
- ◆ must ensure that mediation will not jeopardize the case assignment process and other Program Coordinator responsibilities, such as preparing minutes of subcommittee meetings and preparing for the annual meeting
- ◆ must select a case from those offered to all mediators
- ◆ must select a case in which the mediation site is within the Portland metropolitan area
- ◆ must obtain approval from his/her supervisor to mediate the case selected
- ◆ Mediation must occur within regular tour of duty and may not incur overtime. (under law and regulations, the Program Coordinator is not able to volunteer time as a mediator in the program)
- ◆ may mediate a maximum of one case per month

##### **Benefits to the program:**

- ◆ enhancement of Program Coordinator job
- ◆ meet a need to staff cases for which there are no volunteers
- ◆ professional development opportunity for Program Coordinator
- ◆ knowledge of process gained by Program Coordinator will benefit SN program

#### **Policy 4.06 - Mediator Debriefing (updated 10/4/04)**

At the conclusion of each mediation session, mediators should be willing to give honest, timely feedback to their co-mediators. Shared Neutrals strives to cultivate a culture that not only welcomes, but also requires honest feedback. Feedback should be reciprocal – from primary to co, co to primary, and any other mediator combination. **NEW, 10/04:** Only 1 form needs to be completed for each mediation session. The form should be completed from the perspective of reviewing the mediation *team*.

##### **PROCESS - Guidelines for Mediators Debriefing**

1. Upon conclusion of each mediation session, mediators will jointly complete the *Mediator Debriefing* form.
  2. The completed form should then be sent, along with the other case paperwork, to the Program Coordinator at the conclusion of the mediation.
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3. Be honest. Be consistent. What you tell each other should be consistent with what you put on paper.
4. If you have lingering or strong concerns after talking to the other mediator, notify the Program Coordinator, who will alert the Personnel subcommittee.
5. Remember identify specific behaviors (*The OMA standards of practice may be helpful to use for debriefing*).

#### **Policy 4.07 – Establishment of Trainee Roster**

*Applicants who have met all of the minimum requirements except sufficient mediator experience to be added to the Co-mediator Roster, may be invited to join the Shared Neutrals Trainee Roster. As well as meeting the requirements of agency membership, training and commitment to continuing education, they must also agree to the following:*

1. Work with a designated mentor from the Primary Roster to obtain additional exposure and experience in the mediation process in order to meet the minimum requirements to be admitted to the Co-mediator roster.
2. Continue to pursue additional training and experience outside of the Shared Neutrals Program.
3. After a six to eight month period of time, be re-evaluated by the Personnel Standing Committee for admittance to the Co-mediator Roster.

### **POLICIES & PROCEDURES – SUBCOMMITTEE**

#### **Procedure 5.00 – Subcommittee Meetings**

The Subcommittee will normally meet once a month. To the extent possible, this meeting will be scheduled at a consistent time and place.

Notice for the subsequent meeting will be set at each meeting. The Program Coordinator will send a meeting reminder and request for agenda items to all members at least one week in advance.

Special meetings may be called by the Chair or by request in writing from any four members upon two weeks notice.

The Program Coordinator will document and distribute documentation of Subcommittee activity. This documentation includes meeting agendas, minutes, and revisions to written materials. If the Program Coordinator is unavailable, the Chair will appoint a member to carry out the secretarial duties.

#### **Procedure 5.01 – Subcommittee Attendance**

The Subcommittee expects members to attend all regular meetings. Members who cannot attend a meeting are encouraged to send an alternate who is familiar with mediation and current issues. Alternates may vote on some matters but cannot block consensus.

The Subcommittee defines the quorum necessary for consensus *as half the standing members*.

#### **Procedure 5.02 – Subcommittee Dismissal**

Members who miss three consecutive meetings may be subject to review by the Subcommittee. This review may include discussion of dismissal. The Chair will notify members of dismissal.

#### **Procedure 5.03 - Standing Committee Description & Responsibilities**

The **Personnel Committee** is responsible for recruiting, selecting, evaluating, and maintaining the cadre of neutrals. It is also responsible for addressing expressed concerns about mediator performance. (More detail in the administrative procedures section of chapter 6.)

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The **Training Committee** is responsible for planning, implementing and overseeing training needs of the Program. Specific responsibilities of the Training committee are:

- ◆ Identify training needs, select topics and arrange for training
- ◆ Design and implement a mentoring "program"
- ◆ Assist with training needs for individual mediators as requested by personnel committee

The **Outreach and Marketing Committee** is responsible for advertising the Program to agencies and assisting agencies in joining. The **Liaison committee** is a subset of the Outreach & Marketing committee, and responsible for promoting effective working relationships between Agency Liaisons and the Program Coordinator.

## **POLICIES & PROCEDURES - ADMINISTRATIVE**

### **6.01 Where to store Consent to Mediate Forms, and who has access to them**

- ◆ The original Consent to Mediate form stays with the SN Program Coordinator (with case file). Next: a copy can go to the Agency Liaison, if requested. Program Coordinator will not release a copy to anyone besides the liaison (or whoever originally brought the case to Shared Neutrals, if not the liaison).
- ◆ If the mediator's agency needs info on the cases they do (such as CMS), the mediator may provide case# and dates of mediation ONLY ("sanitized"), for cross-referencing purposes. The Mediator, not Shared Neutrals, is responsible for providing this information.
- ◆ In an EEO complaint – the liaison may provide a copy of the Consent to Mediate to certain persons, which can be used in an EEO report or (in rare instances) other agency use to protect the participant (i.e. to protect confidential information when subpoenaed, etc.).

### **Procedure 6.05 - Observers in Mediations**

- ◆ The parties will be notified in the party letters that observers may be present (in standard party letter.)
- ◆ The primary mediator will mention to the parties as a matter of protocol that observers may be present
- ◆ If any party objects, there will be no observers, but if there are no objections, the primary will notify the Program Coordinator of the date of mediation and that observation is OK
- ◆ The Program Coordinator will then routinely broadcast observation opportunities via e-mail
- ◆ Eligible interested persons will respond to the Program Coordinator who will assign observers on a first-come basis
- ◆ The Program Coordinator will let the primary know who has been assigned to observe
- ◆ The primary will then notify the observer (via e-mail or phone) about the specific location and time of the mediation session
- ◆ Observers may not observe cases from their own agencies
- ◆ No more than two observers per session.

Persons eligible to observe mediation sessions include:

- ◆ All mediators currently on the roster
- ◆ Agency liaisons
- ◆ Subcommittee members
- ◆ The Program Coordinator
- ◆ "Mediator Mentees" (Mediator applicants who are linked up with a Shared Neutrals Mentor Mediator.
- ◆ The following language is included in party letters:

*"Sometimes an observer is given the opportunity to observe a mediation session for training purposes. The observer may be a mediator of other person connected with Shared Neutrals, but will **not** be someone from your agency. The observer is bound by the same rules of confidentiality as the mediator*

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and signs the same confidentiality agreement as participants. Having the observer in the room is strictly voluntary and you can at any time ask that the observer not be present during the mediation.”

## **POLICIES & PROCEDURES – TRAINING AND TRAINEES**

### **Policy 7.00– Establishing the Mentor-Trainee Relationship**

A Mentor-Trainee relationship is a partnership convened for the purpose of enhancing learning. The role of mentor mediator is to actively assist the trainee to achieve specific learning goals, and to develop his or her own unique potential as a mediator.

Administrative procedures for establishing mentor-trainee relationships are outlined below.

#### ***Procedure 7.00 – Administrative Protocol for matching Mentors & Trainees***

1. The Training Standing Committee creates a list of mentors (using **Mentor Profile form**) and gives the list to the Program Coordinator.

For Existing Mediators:

- a) An existing mediator (already on the roster) may choose to establish a mentor- trainee relationship, at any time in order to enhance their skills.
- b) It is up to the mediator to contact the Program Coordinator to find out who is available as a mentor and then to speak to available mentors to establish the mentor –trainee relationship.

For NEW applicants:

- a) The Personnel Standing Committee interviews mediator applicants, as usual, and may choose to accept that person into the Program as a Trainee;
- b) The Program Coordinator provides New Mediator Orientation (for program consistency), and has the Trainee sign the *Mediator Contract*;
- c) The Program Coordinator then sends the applicant a list of available mentors, and also sends out an e-mail to mentors with a “heads up” message that the person might be contacting them.
- d) The Trainee is then responsible for speaking to available Mentors and choosing one to establish a formal mentor-trainee relationship with. The Trainee reports the name of the mentor to the Program Coordinator, who logs it onto the Mediator Roster.

#### ***Procedure 7.01 – Protocol for All Trainees***

- a) The Trainee should observe at least one case with any Shared Neutrals mediation team;
  - b) The Mentor debriefs with the Trainee about their observation experiences, and mediates at least one case with the Trainee;
  - c) After mediating at least one case with their Mentor, with the approval of the Mentor, the Trainee may mediate with other Primary Mediators;
  - d) It is up to the mentor- trainee team to ascertain when the Trainee is ready to move to ‘Co-mediator’ status on the Mediator Roster, and when they can mediate without their Mentor’s approval;
  - e) The Mentor must inform the Program Coordinator, via e-mail or letter, that the Trainee’s status should be changed to “Co-Mediator” on the roster.
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# **Shared Neutrals**

**sponsored by the Oregon Federal Executive Board**

## **Frequently Asked Questions**

### ***What is ADR?***

Alternative Dispute Resolution includes such processes as facilitation and mediation. These methods generally help participants to negotiate collaboratively to resolve conflict. They are an alternative to traditional adjudicatory or adversarial methods.

### ***What is a “neutral”?***

A neutral is a third party to the participants in conflict. With no stake in the outcome, a neutral remains impartial to both sides. Neutrals in this Program are specially trained to facilitate communication and expedite negotiations under a variety of circumstances.

### ***Who are the neutrals?***

The neutrals who serve this Program are employees - and trained volunteers - of the participating agencies. They are specially trained and experienced neutrals with diverse professional and cultural backgrounds.

### ***Why share resources?***

Each participating agency contributes a little and gains access to a lot. Agencies typically contribute the services of a few neutrals, along with items such as meeting rooms and printing. In exchange, agencies gain access to dozens of highly trained and experienced neutrals, at no additional cost. Perhaps more importantly, neutrals from outside agencies provide both high levels of neutrality and an enhanced appearance of neutrality.

### ***What is mediation?***

Mediation is a confidential, informal conflict resolution process in which trained, impartial third parties facilitate the search for a mutually acceptable, self-determined agreement between disputants.

Mediation encourages a collaborative, non-adversarial approach to solving problems. The process is voluntary and provides a safe environment for people to talk through their issues, interests, and feelings.

### ***When should mediation be used?***

Mediation is most effective when used before a conflict has escalated to a high level of volatility. It is a highly effective tool when parties are unable to work together effectively, when parties have an interpersonal conflict, and when circumstances or personal styles result in poor communication.

### ***What types of disputes can be resolved through Shared Neutrals?***

Participating agencies select the types of disputes they wish to refer to the Program.

**Shared Neutrals provides mediation or facilitation for these types of disputes:**

- **Employment/Workplace**  
communication, cross-cultural, interpersonal, multi-party, staff/management
- **EEO**  
discrimination, harassment

**Shared Neutrals may also provide mediation or facilitation for these types of disputes:**

- **Agency (contracts, etc.)**
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- **Agency / Client-Customer**

### ***What types of disputes are NOT appropriate for Shared Neutrals?***

The Shared Neutrals Program excludes certain types of disputes that have been deemed inappropriate for this Program as a matter of policy. Shared Neutrals DOES NOT provide mediation or facilitation for these types of disputes:

- **Cases involving serious or criminal misconduct**
- **Disputed union contracts**
- **Cases expected to require more than 35 hours (4-6 hours is typical)**
- **Cases in which parties do not participate voluntarily**
- **Cases that an individual agency elects to exclude**

### ***How long does it take?***

Dispute resolution through the Shared Neutrals Program is fast and informal. It generally takes two weeks to schedule a session. The scheduling process may be expedited when circumstances demand immediate attention. Most mediation sessions take between 4 to 6 hours. Complex, multiparty disputes may require more than a day. The Program only accepts cases that are anticipated to take fewer than 35 hours.

### ***What does it cost?***

There is no charge to the parties in dispute, because their agencies are participating members. Neutrals are paid for their time by their own employer or volunteer their own time. The only “cost” to participants is to provide their honest feedback (via evaluation forms) about their experience of the process.

Any travel costs incurred are paid by the agency making the request for services. Voluntary agency contributions cover administrative costs such as conference rooms, printing, clerical help, and training.

### ***What happens in mediation?***

Participation is voluntary and private. Participants determine the outcome. Generally, a written or verbal agreement is reached. A successful outcome does not always require a formalized agreement. The opportunity to be heard and to hear another perspective can help to clarify issues, provide insight into interpersonal dynamics, and generate new awareness of options.

### ***What happens if it doesn't work?***

Sometimes agreements are not reached in mediation or parties do not adhere to agreements they have reached. The Shared Neutrals Program does not insist on or enforce mediation agreements. If parties fail to reach or adhere to agreements, parties are still free to explore other options. Participation in a mediation session does not preclude use of any other options for dispute resolution.

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