



Mediation Observation Checklist

Office of Alternative Dispute Resolution (ADR)

New York State Unified Court System

The NYS Unified Court System is committed to ensuring that all litigants receive high-quality services when engaging with the court and its various partners. To promote high-quality mediation services, the Statewide ADR Office of the NYS Unified Court System developed a Mediation Observation Checklist, to provide evaluations of existing or prospective mediators on court rosters through direct observation. This checklist may be administered by ADR court staff or by an experienced mediator-observer selected by the local ADR Coordinator.

For Evaluators:

In each section below, please note the interventions, skills, and qualities demonstrated by the mediator. When possible, please provide comments and cite specific examples of strengths and areas for improvement. To protect confidentiality, avoid providing information that might identify participants or their attorneys.

Mediator(s): _____ Evaluator(s): _____

Date(s) of Observation: ___/___/___; ___/___/___; ___/___/___

OPENING	OBSERVED	COMMENTS
Facilitated introductions among everyone present		
Explained process, including role of mediator, parties and counsel		
Explained voluntary nature of the process, mediator commitment to neutrality, and confidentiality		
Discussed possibility of caucus		
Explained potential outcomes		
Explained guidelines for process		

PROMOTING DIALOGUE AND UNDERSTANDING	OBSERVED	COMMENTS
Allowed expressions of emotion		
Distinguished positions from interests and reframed issues in neutral terms		
Facilitated party interaction		
Used active listening techniques (reflection, summary, reframing)		
Managed interruptions that threatened the process		
Allowed parties to fully present their concerns		
Gathered sufficient information		
Asked appropriate questions		
Encouraged unrepresented parties to consult with counsel, when appropriate		

GENERATING MOVEMENT AND OPTIONS	OBSERVED	COMMENTS
Developed agenda with parties		
Generated movement		
Avoided giving own views or advice		
Helped parties identify and maximize options		
Facilitated creative problem-solving, where possible		
Focused on the future		
Encouraged reality testing of options and proposals		

DRAFTING AGREEMENT AND CLOSING	OBSERVED	COMMENTS
Clearly reviewed all agreement points with parties and areas of remaining disagreement, if applicable		
Encouraged parties to review with counsel (if not present)		
Discussed alternative processes if no agreement reached		
Closed session with appreciation of parties' efforts and recognition of constructive negotiation moves by parties		

MEDIATOR ATTRIBUTES AND ADHERENCE TO ETHICAL STANDARDS	OBSERVED	COMMENTS
Maintained appropriate body language and professional demeanor		
Encouraged active participation of participants		
Worked cooperatively with co-mediator, if applicable		
Established trust and confidence in the mediator and the process		
Showed understanding		
Demonstrated impartiality		
Maintained confidentiality		
Maintained control of process		
Established safe and professional environment		
Supported self-determination of participants		
Displayed optimism around the potential for a mutually acceptable outcome		