



GEORGIA OFFICE OF DISPUTE RESOLUTION

Ethics Examination for Mediators

PART ONE: True / False questions

1. A principal duty of the mediator is to fully explain the mediation process. This should include an explanation that the parties, by their participation, affirm that they have the capacity to conduct good-faith negotiations and to make decisions for themselves, including a decision to terminate the mediation if necessary. [True] / [False]
2. Mediators may discourage parties from being represented by counsel. [True] / [False]
3. A mediator may provide professional advice to parties in caucus if the mediator is a licensed attorney, accountant, or psychotherapist. [True] / [False]
4. A mediator may disclose information learned in caucus if the mediator believes it will foster settlement. [True] / [False]
5. The mediator's notes, generated in connection with the a mediation session are subject to disclosure or discovery and may be used in a subsequent administrative or judicial proceedings. [True] / [False]
6. A mediator may share her notes with the press after all parties to the mediation have died. [True] / [False]
7. Any exceptions to the promise of confidentiality such as a statutory duty to report certain information must be revealed to the parties in the opening statement. [True] / [False]
8. A mediator's obligations to guard against real or perceived conflicts of interest end at the conclusion of the mediation process. [True] / [False]
9. Mediators should conduct the process in an evenhanded manner and treat all parties fairly and equally at all stages of the proceedings. A mediator should guard against bias or partiality based on the parties' personal characteristics, background or behavior. If a mediator cannot serve without bias, the mediator should recuse her/himself. [True] / [False]

10. If a mediator has prior relationships or interests with a party or a party's attorney that may create an impression of partiality or bias, but that in the judgment of the mediator pose no obstacle to objectively mediating the case, then the mediator must disclose those interests or relationships only to the parties' attorneys. [True] / [False]
11. As guardian of fairness of the process, a mediator should report parties who do not mediate in good faith to the court. [True] / [False]
12. A mediator may withdraw from the mediation in order to avoid being party to an agreement they feel is fundamentally unfair to one party. [True] / [False]
13. If the parties wish to enter into an agreement that commits third parties who are not part of the mediation, the mediator should alert parties to this and the problems which may arise as a result. [True] / [False]
14. Mediators are prohibited from advertising. [True] / [False]
15. Mediators should declare impasse only when there is not possibility of progress. [True] / [False]
16. Mediators' fees may be contingent on outcome; mediators may charge less if no settlement is reached. [True] / [False]
17. Mediators are permitted to refer parties to businesses in which the mediator has an economic interest, as long as those businesses are unrelated to the legal issues in the case. [True] / [False]
18. Once registered with GODR, mediators are not required to disclose their training to parties, even when asked to do so by the parties. [True] / [False]
19. The Georgia Commission on Dispute Resolution has authority to impose sanctions against a mediator registered with GODR for violations of the ethical standards outlined in Appendix C. [True] / [False]
20. If a registered mediator is charged with a crime or subjected to professional discipline, the mediator must notify GODR. [True] / [False]
21. A registered mediator accused violating the ethical standards for mediators may not request a hearing before the Committee on Ethics of the Georgia Commission on Dispute Resolution. [True] / [False]

PART TWO: Multiple-choice questions

22. Primary responsibility for the outcome of a dispute and the content of a settlement agreement rests with:
- A. The mediator.
 - B. The mediator and the attorneys.
 - C. The parties and their attorneys, if the parties are represented by counsel.
 - D. The attorneys.
23. Under what conditions may the mediator assume the role of counsel for either party?
- A. Under no conditions.
 - B. If the mediator believes one party is not aware of the legal implications of a particular settlement offer.
 - C. If one party asks the mediator for her or his advice.
 - D. If one party has less effective legal counsel than another.
24. Before a mediation proceeding begins, a mediator is obligated to inform the parties that:
- A. They may withdraw from mediation at any time and are not required to reach an agreement.
 - B. They will face penalties from the court if they do not come to an agreement.
 - C. They may not withdraw from mediation unless they have the mediator's permission.
 - D. They may not withdraw from mediation unless they have permission from both attorneys and the director of the ADR program.
25. If a mediator learns during a caucus of confidential information that she or he believes would help the negotiation process between the parties, which of following may the mediator NOT do?
- A. Ask the disclosing party for permission to share it with the other party.
 - B. Encourage the disclosing party to share it themselves with the other party.
 - C. Share it in confidence in a private meeting with the attorney for the other party.
 - D. Terminate the mediation if the disclosing party is not willing to share the crucial information.

26. Mediators have a duty to consider whether they have any relationship or interest with any party which could create the appearance of partiality or bias. The duty to disclose that relationship or interest:
- A. Applies to the process only up to the mediator's opening statement.
 - B. Applies only during caucuses.
 - C. Is a continuing duty at any stage of the process.
 - D. Doesn't apply if the parties come to a successful agreement.
27. After accepting appointment to and while serving as a mediator for a particular case, a mediator:
- A. Should avoid entering into a financial relationship with any party to a case, but may enter into a casual social relationship.
 - B. Should declare his or her impartiality, but may establish a social relationship with either party if it does not reasonably create the appearance of partiality or bias.
 - C. Should declare his/her impartiality, but may establish a professional relationship with either or both parties.
 - D. Should avoid acquiring any financial or personal interest which is likely to might reasonably create the appearance of partiality or bias.
28. If the parties wish to enter into an agreement that is illegal, the mediator should:
- A. Withdraw from the process and notify the parties they are free to enter into any agreement they wish notwithstanding the withdrawal of the mediator.
 - B. Withdraw from the process and report the parties to the police.
 - C. Notify the parties their agreement would be illegal
 - D. Respect the parties' self-determination and continue the mediation.
29. What guarantees may a mediator make to the parties?
- A. That they will have a very high chance of being able to settle their dispute.
 - B. That the parties will be able to come to a settlement within a certain number of mediation sessions or hours.
 - C. That the parties will have no need for their attorneys to review the final settlement terms.
 - D. None of the above.
30. Sanctions that the Georgia Commission on Dispute Resolution may impose on registered mediators found to have violated the ethical standards include:
- A. Additional training, continuing education and mentoring.
 - B. Suspension or removal from registration.
 - C. Personal statements of responsibility to be published in the GODR newsletter.
 - D. A and B.