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Why Nonlawyers Can Serve as Mediators

Mediation Does Not Belong Exclusively to Lawyers

Maryland's mediation framework recognizes an important professional distinction:

Facilitating mediation is not automatically the same as practicing law.

Maryland Rule 19-302.4 addresses attorneys serving as third-party neutrals. More directly, MSBA Ethics Docket 2003-02 examined whether attorneys and nonattorneys could operate a mediation practice together.

The opinion explained that mediation, when confined to the boundaries established by Title 17, does not require the mediator to provide legal advice, apply legal principles on behalf of a participant, evaluate the merits of the case, or recommend settlement terms. Within that limited framework, a court-ordered mediator need not be a lawyer.



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Maryland Rule 19-302.4

The Attorney as Third-Party Neutral Rule



This rule helps distinguish mediation from the practice of law.



It recognizes the neutral role of the mediator and supports the legitimacy of non-lawyer mediators.



That distinction matters because mediation is not litigation in another form—it is a separate process centered on neutrality, understanding, and participant self-determination.



Why it matters: Mediation works best when the neutral is not confused with an advocate.

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The opinion is careful: some activities conducted under the broad label of “mediation” may cross into the practice of law. Drafting legal instruments, interpreting legal rights, giving individualized legal advice, or exercising legal judgment for someone else may require an attorney.

But mediation itself occupies a different professional space.

That space matters.

Opening mediation to trained professionals outside the legal profession allows the field to benefit from people grounded in:

- * psychology and human behavior;
- * education and communication;
- * social work and family systems;
- * organizational leadership;
- * community engagement;
- * theology and pastoral care;
- * business and workplace conflict;
- * and lived experience within the communities being served.

Legal knowledge can be tremendously valuable in mediation. But legal training and mediation competence are not synonymous.

A lawyer may understand what a court could order.

A mediator must also understand how to remain present when no immediate answer is apparent; how to listen without commandeering the conversation; how to support self-determination; and how to help people explore conflict without turning every disagreement into a legal contest.

The openness of mediation is not a weakness. Properly trained and supervised, it is one of the field’s greatest strengths.

In Practice

Effective mediation depends on the mediator's ability to facilitate a fair, impartial, and self-determined process—not on belonging to a particular profession. Regardless of their background, mediators should remain mindful of the boundaries of their role, avoiding legal advice or other services that fall outside their qualifications. When legal questions arise, participants should be encouraged to seek independent legal counsel. By respecting these professional boundaries while drawing upon their own training and experience, mediators help ensure that participants receive both competent process guidance and appropriate subject-matter expertise when needed.

Reflection Questions

- What qualities are most important for building trust and effectiveness in a mediator?
- How can professionals from different disciplines strengthen the field of mediation while remaining within the boundaries of their expertise?
- Why is it important for mediators to recognize when a participant's needs extend beyond the mediation process?
- How does a diversity of professional backgrounds contribute to more thoughtful and responsive conflict resolution?

Key Takeaway

Mediation is distinguished not by the profession from which a mediator comes, but by the principles that guide the process. Professionals from a wide range of disciplines can become effective mediators when they receive appropriate training, honor the limits of their role, and remain committed to neutrality, self-determination, and ethical practice. The strength of mediation lies in its ability to draw upon diverse perspectives while maintaining a process that empowers participants to make their own informed decisions.

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This article is provided for educational purposes only and is intended to encourage thoughtful reflection about communication, conflict, and mediation. It is not legal advice, psychological counseling, or mental health treatment.

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