

Letter to A Young Mediation Enthusiast

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Dear Young Mediation Enthusiast,

Thank you for writing to me and expressing your great interest in mediation after going through the 40-hour training and passing the accreditation assessments with flying colours.

I am grateful to you for raising several important issues relating to the practice of mediation and how a mediator should charter the way forward. While I do not have a set of model answers for you, I am more than willing to share as your questions are thought-provoking and have made me reflect deeply on the values and attributes of a mediator.

Qualifications

Like many other professionals, a higher degree or an additional title on the part of a mediator will certainly give the service provider and service users more confidence. That said, I am inclined to think that certain mediation skills such as the listening and empathy skills as well as the not-giving-up attitude have very little to do with degrees and certificates. How to connect with a party within a short period of time and how to remain patient after 10 hours of mediation is a challenge to all mediators. My view is that passion is built on a good heart, quiet mind and perseverance. With passion and practice, one will be able to walk through the process with the disputants who expect to have your appropriate attitude, respect and occasional humour regardless your CV.

Please bear in mind that no one will respect a mediator more merely because of his/her possession of a higher degree or decorated title. On the contrary, your peers and the professional users (e.g. lawyers) will start to worry if (1) a mediator's qualifications are not quite proportionate with the ability demonstrated in the room; and/or (2) the qualification that a mediator holds out to have is of a questionable nature. The endless quest for more knowledge and the continuous desire to improve is positive but an indication that one is superior to others may be taken negatively as bragging boastfully. Very few users of mediation services would like to appoint someone who is too keen to put his personal interests in front of the parties' interests. Without humility and the calling to serve for a higher goal, a mediator thinking too highly of himself/herself may find it difficult to embrace conflicts.

Practice and Marketing

I am very impressed by your question on balancing between practice and marketing.

Between January and November 2020, I conducted around sixty-six cases. Some are more complicated than the others. During the same period, I acted as a moderator in big and small seminars/webinars about four times and I spoke as a presenter on two to three occasions. While we all like to receive invitations to speak at international conferences, we must at the same time be alert that fame or a higher position per se will not make us better mediators. Likewise, being the chairman of an important mediation organisation will not enhance a mediator's skills that are required in the room.

I always look up to those who are willing to set aside their valuable time to promote mediation by attending local and international events. However, I am a bit hesitant to be involved in too many mediation promotion activities because I am conscious not to allow the courtesy compliments to bring me a swollen head.

As mediators, we need to be congruent and honest with ourselves. If a mediator does not have mediation appointments, something must have gone wrong. I have witnessed some peers who are too focused on marketing and organising events or alliances. As a result, they have little time and patience to deal with the parties who are highly emotional and probably hostile. My question to you is: could you reconcile with yourself when followers think that you can do magic but you know very well that your magic wand has been misplaced? Without the ongoing challenges from the parties and their legal representatives in real life mediation cases, the opportunity of presenting a 15-minute delivery in the era of flooded seminars/webinars could hardly be meaningful except fulfilling one's own self-satisfaction.

Training

Thank you for showing great interest to be a helper in my future training. Training is fun and one will feel good to see participants acquiring the new skills with a sense of achievement. With the process model and the micro skills, a mediator may have a comparatively easy way of making money by doing training repeatedly in different jurisdictions as mediation is up-and-coming and well received worldwide. The caution is that in order to be a better trainer, one must possess the ability to answer questions from students and share real life mediation experiences.

Without continuous practice, a trainer will be less ready to prepare for the unexpected and overcome impasses. Gradually, there will be a tendency of sticking to training with self-written dispute scenarios rather than walking at the same emotional and intellectual pace with the disgruntled parties and their smart legal representatives.

Besides, a trainer needs to be trained on new topics such as the United Nations Convention on International Settlement Agreements Resulting from Mediation and mediation in the context of investor-State dispute settlement. Latest judgments on mediation and mediation advocacy must be kept updated. If one is minded to earn easy money, mediation practice or mediation training should not be the answer.

Let me conclude this letter with a quote of Yangming Wang (1472 – 1529), a Chinese philosopher of Ming Dynasty. Wang once said "It is easy to demolish the villains in the mountain but it is very difficult to get rid of one's villain in the heart." I keep reminding myself of not letting fame, power and money to dictate the pure and neutral mind of a mediator. It is always hard to build up a successful career. One will hardly be able to tell in advance whether the path ahead will bring him/her to become Wright brothers or the once very famous rival. What we could do is to have a good heart and keep up with our very beginning mind of peacemaking. With luck, success would probably come as a by-product.

Thank you once again for raising the various questions to me. I may sound too old school to you. Keep talking to other mediation practitioners and keep an open mind to their thoughts and comments.

Wishing you a successful career as a mediation practitioner!

Have a healthy Year of 2021!

With best wishes,

Yours sincerely,

TK IU