

# Making the Case



A look at contracting special education  
mediation programs through law  
school clinical programs



- ∞ Arkansas Rules and Regulations
- ∞ Training the advocates of tomorrow:  
Role of Students
- ∞ SEA/Contractor Relations
- ∞ Quality Assurance: Process and  
Program Fidelity

# The set up



- ❧ Arkansas Youth Mediation Project (1999)
  - ❧ Family In Need of Services
  - ❧ Dependency/Neglect
  - ❧ Juvenile Delinquency
- ❧ Arkansas Special Education Mediation Project
- ❧ Arkansas Early Intervention Mediation Project

# Arkansas Mediation Certification areas and requirements



- ∞ Ark. Code Ann. § 16-7-104
  - ∞ Civil
  - ∞ Domestic Relations
  - ∞ Juvenile (Additional Mentee Requirement)

# Training the advocates of tomorrow



# No ATTORNEYS



Attorneys for parties to the dispute **are not permitted** to attend the pre-hearing mediation session(s), as the presence of attorneys at the pre-hearing mediation session would have the potential for creating an adversarial atmosphere not conducive to mediation of the dispute. This does not, however, preclude either party from communicating with its attorney to seek advice regarding the terms of a settlement proposal.

# Student workload and experience



- ❧ Mediation Clinic students must
  - ❧ Attend a 40 hour pre semester training on mediation before the semester begins
  - ❧ Attend class 3 hours per week
  - ❧ Complete 8 observations throughout the semester
  - ❧ Debrief with Mediator after mediation
  - ❧ Write Case Reports
  - ❧ Write a paper or a project

# Pre training training



History of ADR and the ADR Continuum

Overview of the Mediation Process

∞ Theory of multiple intelligences

∞ Communication/Culture



# Observations



- ∞ 8 Observations throughout the semester
- ∞ Complete check list
- ∞ Pre plan with Mediator
- ∞ Debrief with Mediator

# Principles of Personal Ethics



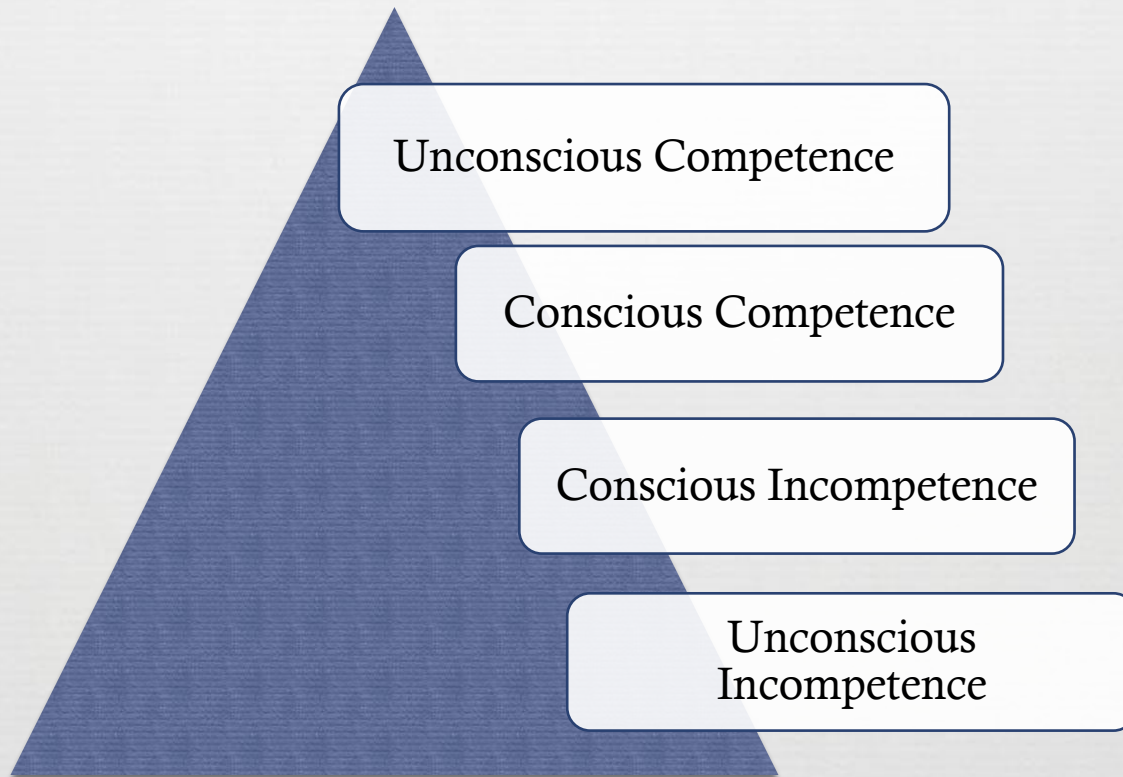
- ❧ Concern for the well-being of others, doing good (beneficence)
- ❧ Respect for the autonomy of others (autonomy)
- ❧ Trustworthiness & honesty (fidelity)
- ❧ Willing compliance with the law, with the exception of civil disobedience (justice)
- ❧ Basic justice; being fair (fairness)
- ❧ Preventing harm (non-maleficence)

# Case Studies



- ❧ Submit 2 case studies
  - ❧ Summary
  - ❧ Outline attendees and roles
  - ❧ Narrative of the Mediation
    - ❧ Room set up
  - ❧ Outcome
    - ❧ MOU
  - ❧ Mediation Factors
  - ❧ Mediation Theory

# Skill development



# SEA/Contractor Relations



# SEA/Contractor Relations



- ❧ NEUTRALITY
  - ❧ Consult not adversary
  
- ❧ Fluid Program Development
  - ❧ Crossover with other areas
  - ❧ Responsive to needs of community

# Arkansas

## impartiality of the mediator



- ⌘ May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and
- ⌘ **Must not have a personal or professional interest that conflicts with the person's objectivity.**
- ⌘ A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described in 34 CFR 300.228 solely because he or she is paid by the agency to serve as a mediator.

**True Third Party Neutrality**

# Arkansas

## impartiality of the mediator



☞ (3)(i) The State must maintain a list of individuals who are qualified mediators and

*knowledgeable in laws and regulations relating to the provision of special education and related services.*

☞ **Mediation Training**

☞ **Certified by the governing body of the State**

☞ **Special Education specific training**

☞ **Program Fidelity**



# Arkansas

## impartiality of the mediator



Is voluntary on the part of the parties

**A third party neutrality**

Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and

**Mediation Training  
Certified by the governing  
body of the State**

Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques

**Special Education specific  
training**

# Quality Assurance

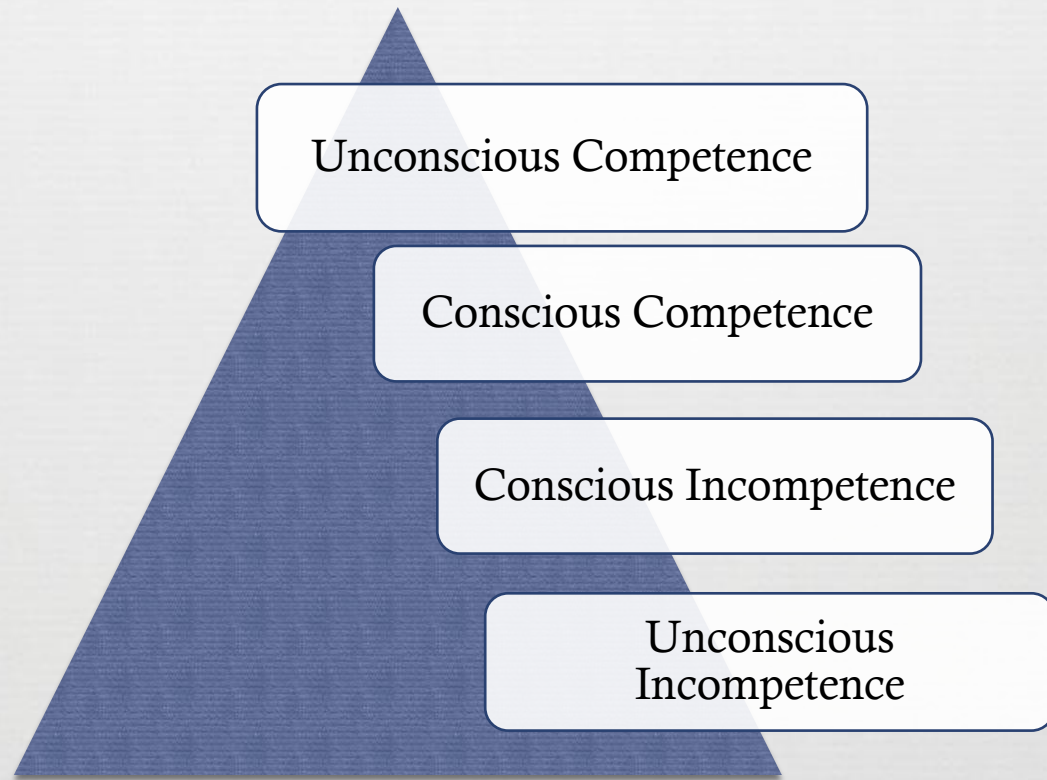


Observations



Case Studies

# Skill development



# Arkansas Special Education Mediation Project



Specific information...

# Arkansas Special Ed Mediation Project *requirements*



- Be **CERTIFIED** by the AADRC in at least one area of practice
  - must maintain certification
- Adhere to the ethical practice of mediation, and
- Complete the **16 hour Special Education Mediation Training Course** conducted by UALR William H. Bowen School of Law, and
- Observe **2** Special Education Mediation cases, both on a pro bono basis.

# Arkansas Special Ed Mediation Project *requirements*



- ☞ Receive a minimum of two hours of continuing education in special education issues, as part of or in addition to the hours required by the ADR Commission for continuing education on an **annual** basis, and
- ☞ Attend any additional training when deemed necessary by the Special Education Unit of the Arkansas Department of Education.

# Practical Experience

## *for mediation certification*



- ☞ Have observed, mediated, or co-mediated **TWO** mediations involving issues that would be heard in circuit court, other than domestic relations or juvenile matters;
- ☞ Observations and co-mediations must be of a case that is, or would be, filed in the civil division of the Arkansas Circuit Courts.

Observations and co-mediations must be completed with a mediator who is certified by the Arkansas ADR Commission.



# Training Requirements

## *for mediation certification*



- ☞ Minimum of *40 hours in a mediation training approved by the Commission*
- ☞ Applicants who complete a mediation training course outside of Arkansas must also complete the Commission's course Mediator Ethics, Law and General Practices in Arkansas.
- ☞ Applicants must complete the certification process within five years of completing basic mediation training

# Education requirements *for mediation certification*



- ∞ Have a masters level degree or higher; or
- ∞ Have a bachelors degree plus a graduate level certificate in conflict resolution; or
- ∞ Have a juris doctorate or equivalent; or
- ∞ Have substantial, demonstrated, and satisfactory knowledge, skills, abilities, and experience as a mediator in the applicable field of mediation

# Ethics

## *for mediation certification*



- œ Be of good moral character; and
- œ Accept and follow the Arkansas Alternative Dispute Resolution
- œ Commissions Requirements for the Conduct of Mediation and Mediators.

# Next Steps



- ❧ There are 205 accredited law schools in the USA
- ❧ The American Bar Association
  - ❧ Clinical Experience
- ❧ Hundreds of clinical mediation programs throughout the US
- ❧ Collaboration

# Contact Information



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