



7th Bucerius Mediation Competition by BODENHEIMER 2021 Guidance Sheet

This guidance sheet shall give teams, coaches and judges an idea of how to interpret the scoring categories and what is expected for a good performance in some of the scoring categories. We aim at portraying realistic negotiation and mediation situations which are scored accordingly. This is only a guidance, however, open for interpretation and complements.

1. Presenting Your Case

- Knowledge of the facts of the case
- Showing emotions appropriate to the case and your role
- Showing awareness of your interests
- Communicating in an authentic and persuasive manner
- Demonstrating rhetorical skill
- Effective use of Opening Statements

Tools you may find appropriate to excel in this category:

- *Use storytelling to bring the discussion to life and show your unique character and background information*
- *Find your own voice and be inventive*
- *Make your point clear and keep everybody's focus on the important facts*
- *Express your character's emotions*
- *To make effective use of Opening Statements you may want to:*
 - *Provide a background of your character and outline the conflict*
 - *Especially here: feel free to express your emotions*
 - *Give insights into your perspective on the case*
 - *Present it freely without referring to notes*
 - *Employ humour and other rhetorical devices*
 - *Find a smooth transition to whatever is following your Opening Statement*

2. Mediation Communication Skills

- Employing active listening skills, i.e. looping, mirroring etc.
- Creating a constructive atmosphere with the other team
- Showing awareness of possible cultural differences and differences in language
- Enabling a flowing communication with the other party through interactive communication

Tools you may find appropriate to excel in this category:

- *Listening effectively and engage in the conversation by appreciating the other party's position and/or interest and working with the information presented by them*
- *Acknowledging and respecting the other party's needs*
- *Avoiding completely irrational or hostile behaviour*
- *Awareness of possible cultural differences and language barriers might not be applicable in every case; if the case presents political religious or other aspects possibly influencing the decision making process show understanding and appreciate different reasonings; also, not everyone is fluent in English, show awareness of different language levels, different accents and choice of words by clarifying misunderstandings, not expecting perfect pronunciation or choice of words*

3. Understanding of Mediation Theory

- Awareness of the phases
- Clearly differentiating between interests and positions
- Awareness of why this case is suitable for mediation
- Awareness of the confidentiality
- Awareness that mediation is voluntary

Tools and remarks you may find appropriate to excel in this category:

- *There is no need to explicitly state the names of the phases of a mediation*
- *It is sufficient to communicate them if they become relevant, ie: When considering your WATNA/BATNA you might also think about other methods of resolving your conflict; when disclosing information you might want to confirm with the mediator that everything discussed is confidential, also the special confidentiality during a caucus*

4. Teamwork

- Team members enable each other to communicate their position and interests in a structured fashion
- Sharing responsibility appropriately and correspondingly to predefined task of character

Tools and remarks you may find appropriate to excel in this category:

- *We no longer require teams to have a business person and a lawyer present unless specifically required by the case materials*
- *You may decide freely on how to develop your characters*
- *A team synergy has to become apparent and both roles should enhance and support the other's performance*
- *A simple and very specific example of division of roles would be "good cop/bad cop"*

5. Flexibility and adaption Teamwork

- Demonstrating the ability to quickly and adequately respond to new information
- Showing great flexibility regarding possible solutions and the outcome of the mediation

Tools and remarks you may find appropriate to excel in this category:

Here we would like to see how quickly you can think on your feet. A big component of the cases are the confidential information both sides receive. We would like to see you adapt to the unexpected – or maybe not so unexpected if you took the time in advance to think through different ways the case could play out.

6. Business Realism and Outcome of Session

- Demonstrating awareness of economically viable options
- Making realistic/reasonable concessions
- Developing clear short term and long-term solutions
- Awareness that coming to a mediated agreement is not always the best option
- Regardless of whether an agreement has been reached, the outcome of the mediation session served the client's goals

Tools and remarks you may find appropriate to excel in this category:

- *If presented with an option, think it through openly and discuss the real-life implications. This is also a great opportunity to show teamwork!*
- *Do not agree to any options or – later on - solutions that serve to settle the dispute but leave you with a worse stand point than your WATNA presents*
- *If you do not reach a final agreement during the session, try to find a preliminary one, i.e. some sort of agenda on how to proceed or if needed an interim one that works until the next session to protect your commercial interests.*
- *Be aware that mediation is a process and not a guarantee of finding an agreement, use this process to openly explore all options*
- *Always ask yourself and the other party if proposed options can actually work out*

7. Post-Mediation-Analysis

- Ability to argue one's strategy and defend it to critical questions from the judges and the mediator
- Draw conclusions and identify room for improvement

Tools and remarks you may find appropriate to excel in this category:

Once the session has ended, each party will have two minutes to talk about mistakes they might have made and how to improve for the future. Start from your strategy and what you wanted to achieve in which way. Analyse what impacted your decision making and your structuring of the mediation session. You might also want to talk about why you used or did not use a caucus or break. Afterwards the judges will have up to five minutes to ask you questions about your strategy and goals. This is your chance to outline the reasoning behind your actions!