

These markers help the examiner to identify behaviors in order to validate a criterion or not.

Specific skills Criteria

Marker

<p>Listening and appropriate eye contact</p>	<p>active listening (during the narrative)</p> <p>active listening (after the narrative)</p>	<p>Can maintain eye contact with both parties and their lawyers</p> <p>Body posture tries not to show reaction to the content of the narratives</p> <p>Can integrate all party representatives (client and lawyer) into the narrative</p> <p>Can question and explore the use of the language of the parties</p> <p>Can question and explore the emotions brought about during the narratives</p> <p>Can question about tone of voice, speed of speech if appropriate</p> <p>Can question about or explore the behaviors reported in the narratives</p> <p>Can give the parties time to think (if applicable)</p> <p>Can you question about or explore how each party views the relationship, or beyond</p> <p>Does not express discomfort with silence</p>
<p>Summary, Contextualized reformulation, organization of themes</p>	<p>neutral and objective summary</p> <p>help in setting the agenda</p> <p>use of abstracts</p> <p>identification of points of convergence and divergence</p>	<p>Summarized what each part said, either at the end of each part's narrative or at the end of both parts's narrative</p> <p>The summary was made with multipartiality - same level of contact and relationship with both parties</p> <p>The summary briefly reported the main points brought to the mediation table by each party</p> <p>The summary was able to extract from the speech of each part the language that could be seen as toxic for communication</p> <p>It gave the parties the opportunity to confirm what was said, showed flexibility to integrate new information</p> <p>If possible, managed to identify points of common interest for both parties</p> <p>If possible, he was able to detoxify or depersonalize the subject (s) in order to maximize the chances of hearing it by the parties. He did this in a structured way.</p> <p>The questions and observations are contextualized using what you already know from the summary you made earlier</p> <p>Helped in setting the agenda (other than making the agenda)</p> <p>Questioned the parties which points they think should be discussed confirmed with the parties that the agenda made by them can deal with all the points necessary for the parties' objectives in mediation</p> <p>used abstracts on a regular basis, thus rhythimizing the interaction between the parties and the advance of the understanding of the conversation by everyone around the table</p> <p>the abstracts were made in a clear and concise manner and always ending with the approval by the parties (either with a direct question or with non-verbal language)</p> <p>synthesis of each point and of what was discussed in an understandable way by all</p> <p>synthesis of the points in disagreement (if any) in a way understandable by all</p> <p>verification of understanding of what is being agreed</p> <p>minute detail of how what is agreed will be carried out, or determining how details will be resolved after mediation</p>
<p>Contextualized questioning and using various forms</p>	<p>clarification of doubts</p> <p>framing of issues</p> <p>use of appropriate questions</p>	<p>questioning aside whether what is written corresponds to the result of the discussion on the topic and answer any questions</p> <p>The questions asked were contextualized with the subject and the flow of the conversation</p> <p>The questions were contextualized and not standard questions without taking into account the situation</p> <p>The questions enabled a greater exchange of information</p> <p>The questions led to a structure of the conversation</p> <p>The questions enabled a greater understanding of the interests of each and questions of each party</p> <p>The questions enabled a common understanding of what is being spoken</p> <p>The questions are asked in a clear, direct way, mostly using open questions, one at a time, and at a pace that allows the part to think and reflect.</p> <p>The questions are not directives, that is, they do not contain a conclusion or direction of response</p> <p>Does not express discomfort with silence</p>

<p>of questions in a way to find interests with appropriate use of silence</p>	<p>explanation of confidentiality at the beginning and end of the session</p> <p>exploration of new information</p> <p>identification of confidential issues</p>	<p>detailed and clear explanation of how the mediator manages the confidentiality of the private session, at the beginning and at the end of it</p> <p>questioning about issues that were not brought up in the joint session (if any)</p> <p>When exploring new information, focus on the future to test options and see what really matters</p> <p>Communicate directly with the party, questioning any points that may appear ambiguous in your report</p> <p>possibility of using visualization techniques (and if tomorrow when you wake up everything is resolved, how would you feel?)</p> <p>Exploring new options (thinking outside the box, creativity)</p> <p>Testing these new options in practice</p> <p>Exploration of party alternatives</p> <p>Consideration of alternatives to what is happening in mediation</p> <p>ability to pose the question that bothers</p> <p>ability to question the part in detail until exhaustion of the details of each agenda item</p> <p>questioning the risk analysis of the case by the lawyer</p>
<p>Raising doubts, help creating options, practice tests</p>	<p>reality test</p> <p>reality test of options</p> <p>confirmation of the feasibility of executing the options.</p> <p>stimulating the search for creative solutions</p> <p>incentive to expand the possibilities of solution by the parties, without giving suggestions</p> <p>promoting direct negotiation</p> <p>encouraging reflection in an objective and judicious way on issues related to merit in the search for an effective solution.</p> <p>identification of issues and interests and confirmation with stakeholders</p>	<p>questions whose answers lead to a specification of the feasibility of the proposed option or the result of the idea exposed by the party or its advocate</p> <p>issues that challenge the party and its lawyer to really think about the consequences of the different options or alternatives exposed</p> <p>questions on points favorable and unfavorable to the options discussed</p> <p>questions about impact on the part or the adverse part of the options exposed (financial, emotional, relational)</p> <p>Statements that summarize, based on what the parties have expressed the alternatives that the party has.</p> <p>Questioning the perception of these statements and the probability of them being realized</p> <p>questions on risk analysis of the subject at hand</p> <p>use of reality tests in the new options and definition of how to trigger them in the mediation process</p> <p>assistance in studying the feasibility of the different options</p> <p>encourage the parties not to give up looking for solutions other than those exposed</p> <p>questioning of the parties as to whether the solution will be the best for both, or whether there may still be others with more positive attributes?</p> <p>questioning of the parties as to whether the solution will be the best for both, or whether there may still be others with more positive attributes?</p> <p>invitation for the party to speak to the other directly</p> <p>promoting direct speech among them</p> <p>agenda follow-up</p> <p>simple language and understandable by all</p> <p>evaluation of the options brought and consequences for both parties</p> <p>sharing the impact that different solutions may have on the parts</p> <p>Identified the main issues and demonstrated that he realized what the parties brought up as a problem</p>
<p>Application of emotion management techniques</p>	<p>reception of emotions</p> <p>management of interventions</p> <p>demonstration of understanding of mediators and lawyers.</p> <p>ensuring balance between the parties</p> <p>interruption control.</p> <p>opportunity for positive advocacy interventions</p>	<p>Did not show discomfort with the emotions expressed by the parties</p> <p>Found the right way to welcome the expressed emotions</p> <p>He managed to manage the conversation so that it was seen by both parties as being constructive</p> <p>Remembered (if necessary) the communication rules expressed at the beginning of the mediation</p> <p>expressions that empathize with the subject that the parties evoke</p> <p>expressions that can facilitate mutual understanding and change of perspective</p> <p>expressions that mirror what the parties or lawyers are talking about</p> <p>the time given to each party was similar, or if not, it was explained to the parties and obtained their consent</p> <p>managed to manage the interruptions of the parties or adv of the parties correctly, either by listening, not being abrupt, maintaining respect for the party while indicating the reason for its performance</p> <p>question the lawyer directly when a mediator finds it necessary</p>

	use the lawyer for oral legal formulation on the options that are being outlined (if you had to put this in a contractual clause, what would you say, then, lawyer?)
emotion management	ability to accommodate the emotions expressed by the ability to use emotion management techniques to get the party to re-appreciate the situation
acting with impartiality	helps in visualizing and considering the needs of the other party
evaluation of alternatives	pro and cons of the alternatives presented
encouraging the generation of options by the parties	use of creativity stimulation techniques use of questions like what if?