



Contemporary Dispute Resolution Skills in Today's Problem-Solving Courts

Monica Kagey
Magistrate Marcie Patzak-Vendetti




Course Objectives

1. Be familiar with the first two stages of the six stage mediation process as a way to build positive rapport.
2. Understand how power dynamics influence negotiations.
3. Practice using communication skills, brainstorming tools, and listening techniques that aid in maximizing creativity and efficiency in decision making.



**Ohio Specialized Dockets
Superintendence Rule 36.02**

A court operating or establishing a particular session that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals may apply for certification from the Supreme Court.



How Does a Court Start a Specialized Docket?

The Supreme Court of Ohio
Dispute Resolution '18
CONFERENCE

Procedure for Certification

- 1) Adopt a local rule or administrative order implementing and complying with the Specialized Docket Standards (Sup.R. 36);
- 2) Every three years or if there is a change in the judge, submit an application and supporting materials to the Specialized Dockets Section; and
- 3) Satisfactorily complete a site review conducted by the Specialized Dockets Section.

The Supreme Court of Ohio
Dispute Resolution '18
CONFERENCE

Supreme Court of Ohio Standards for Certification

- Standard 1 – Planning Process and establishment of the terms of operation for the specialized docket
- Standard 2 – Non-Adversarial Approach
- Standard 3 – Legal and Clinical Eligibility and Termination
- Standard 4 – Assessment & Referral
- Standard 5 – Individualized Needs and Evidence-Based Practices
- Standard 6 – Participant Monitoring

The Supreme Court of Ohio
Dispute Resolution '18
CONFERENCE

Certification Standards Continued

- Standard 7 – Status Review Hearings
- Standard 8 – Substance Abuse Monitoring
- Standard 9 – Treatment and Other Rehabilitation Services
- Standard 10 – Incentives and Sanctions
- Standard 11 – Professional Education
- Standard 12 – Data Collection/Effectiveness Evaluation



How are Contemporary Dispute Resolution Skills Applicable to a Specialized Docket?




The Judge as Mediator in a Specialized Docket




Building Rapport in the Planning Process

<u>Pre-Mediation</u>	<u>Certification Standard 1</u>
<ul style="list-style-type: none"> • Case Development & Preparation • Case Development Activities • Pre-mediation Interviews • Day of Mediation • Mediator's Role 	<ul style="list-style-type: none"> • Planning Process • Schedule and Location of Meetings • Key Group of Officials • Preparation • Make the Case




Building Rapport in the Planning Process

<u>Introduction</u>	<u>Certification Standard 1</u>
<ul style="list-style-type: none"> • Beginning the Session • Element's of Mediator's Introduction • Mediator's Role 	<ul style="list-style-type: none"> • Judge as Chair • Explain Process and Timelines • Ensure Understanding and Buy-in • Include Each Member



The Specialized Docket Treatment Team



The Drug Court team comprises representatives from all partner agencies involved in the creation of the program, including but not limited to a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer.





Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience. The judge considers the perspectives of all team members before making decisions that affect participants' welfare or liberty interests and explains the rationale for such decisions to team members and participants




Treatment Team as a Non-Adversarial Negotiation





Negotiation is the process by which parties share information and use problem solving skills to achieve mutually beneficial solutions.




The Influence of Power Dynamics in Team Negotiation

<p>5 Main Points of Power</p> <ul style="list-style-type: none"> • Position Power • Task Power • Personal Power • Relationship Power • Knowledge Power 	<p>What Should Team Members Do?</p> <ul style="list-style-type: none"> • Assess Points of Power • Build Points of Power • Put Power to Use
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Communication Skills within the Treatment Team





The Importance of Communication within the Treatment Team

- Effective listening techniques
- How to Enhance Communication
- Techniques and Strategies for Dealing with Strong Emotions
- Use of Questions




Judicial Decision Making Within the Treatment Team

- the ultimate arbiter of factual controversies
- makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty
- makes decisions after taking into consideration the input of other drug court team members and discussing the matter in court with the participant or the participant's legal representative
- the judge relies on the expert input of duly trained treatment professionals

Communication Skills with Docket Participants



The Importance of Communication with Docket Participants

- Effective listening techniques
- When and How to Ask Open-Ended Questions
- When and How to Ask Closed-Ended Questions
- Reframing Hostile and Inflammatory Remarks



Judicial Demeanor with Participants

- offers supportive comments to participants
- allows participants a reasonable opportunity to explain their perspectives concerning factual controversies




The dispositive issue is not the outcome of the judge's decision, but rather how the decision was reached and how the participant was treated during the interaction.



**Certification Standard 11
Professional Education**





A specialized docket shall assure continuing interdisciplinary education of treatment team members to promote effective specialized docket planning, implementation, and operation.



Professional Education

- Dispute Resolution adheres to the education standard.
- NADCP recommends ongoing professional education has a best practice standard.

The importance of training is emphasized specifically for judges because research indicates the judge exerts a unique and substantial impact on outcomes in Drug Courts (Carey et al., 2012; Jones, 2013; Jones & Kemp, 2013; Marlowe et al., 2006; Zweig et al., 2012).

**Comments? Questions?
Concerns?**



**Contact
Information**

Magistrate Marcie Patzak-Vendetti

Director of Court Mediation Services
Juvenile Division
300 East Scott Street
Youngstown, Ohio 44505
330-740-2278
MPatzak@mahoningcountyoh.gov

**Contact
Information**

Monica Kagey, MBA, LSW

Specialized Docket Manager
The Supreme Court of Ohio
65 South Front Street
Columbus, Ohio 43215
614-387-9427
Monica.Kagey@sc.ohio.gov
