



1. **Title of presentation:** Universal Disclosure Protocol for Mediation (UDPM): Helping make mediation mainstream

*Text for the slides of UDPM Powerpoint Presentation **Short Version**

Slide 1 - Welcome

Dear dispute resolvers and other colleagues,

Thank you for being here listening about this topic today.

I am going to speak about the Universal Disclosure Protocol for Mediation (UDPM). I believe that this protocol will help make mediation mainstream and I hope that at the end of this presentation you know why and you know how yourself can be part of this movement.

Slide 2 - What is UDPM?

UDPM stands for Universal Disclosure Protocol for Mediation and is a list of a minimum of 6 elements to disclose at the start of any mediation

Conflict of interest

Confidentiality

General process

Role of the mediator and parties

Technology

Impact of venue

delivering a global message to parties regarding what they can expect from Mediation, whatever their cultural, religious, legal, or national context.

In its early period the use of mediation as an alternative to court decisions was unregulated.

The practice of mediation was nascent, and the sparse use of mediation created little need for regulation. As Jay Folberg, Professor Emeritus and former Dean at the University of San Francisco School of Law and JAMS professional, wrote –“The absence of regulation allowed a ‘thousand flowers to bloom’” The variety of unregulated mediation practices and providers created confusion over what mediation is, as well as concerns about the quality of services, procedural fairness, how mediation was being sold and its impact on court proceedings.

Note: Jay Folberg former Dean and professor emeritus at the university of San Francisco School of law. Executive Director of JAMS institute

Slide 3 - Why do we need a Universal Protocol for Disclosure in Mediation (UDPM)?

Why do we need a Universal Protocol for Disclosure in Mediation (UDPM)?

We need an UDPM to Make mediation mainstream worldwide and to ensure self determination

And I am going to explain you how in the next slides

Slide 4 - How is the UDPM making mediation mainstream worldwide?

Several reasons to answer this question.

By giving certainty to future parties considering mediation

Clients know what they are getting, and what they can expect from the mediator and the mediation process.

The different stakeholder of mediation need to be able to do a risk assessment so they can do the correct choice for the process to use to solve the dispute. In order to do this



they need to understand the process and the role of the mediator, and this will make them at least consider this option of going to mediation.

By respecting the extreme diversity of mediation applications and approaches across the world.

By respecting the flexibility of the mediation process

Mediators can continue to offer what they usually do.

The Protocol is not intended to advantage or disadvantage any particular mediation style or approach - it respects the diversity of practice that exists across the world.

You don't have flexibility in court – you need to follow the process, you have few flexibility in arbitration – you need to follow institutional rules, we have flexibility in mediation and it is the only dispute resolution mechanism where the participants can also help to define the process itself. And UDPM allow that and promote the discussion of this important topic.

By supporting self-determination of parties entering the mediation process

The right and ability of the parties in mediation to freely and with understanding engage in the mediation process, is a *nearly* universal principle in mediation.

Clients and lawyers know what is going to happen and agree with that

There are, across cultures and legal jurisdictions, a broad range of mediation styles and "norms." The concept of self-determination, the right and ability of the parties in mediation to freely and with understanding engage in the mediation process, is as close to a universal principle in mediation as can be found. Encouraging and supporting true self-determination is central to fair and effective mediation.

Slide 5 – What the UDPM is not

The main fear that we felt during all these years discussing about this topic was the fear that trying to impose something to all the mediators around the world will kill the sole of mediation. And because of this we feel the need to explain what UDPM is not so we are clear about our intentions when we ask you to come and be part of the Alliance Alliance of Mediators for Universal Disclosure.

UDPM is not

An attempt to "standardize" mediation

It is a list of elements for discussion and understanding - the substance of each element is up to the mediator to define and present.

UDPM is not

A set of rules

It is, rather, guidance regarding best practices for informing the parties regarding the mediator's process and approach and documenting the exercise of self-determination.

UDPM is not

A one way process

Communication from the mediator should be the result of a set of exchanges between the mediator and the parties, with agreement on process accepted by all.

Slide 6 - It s time for you to act!

Endorse the UDPM, apply it and speak about it with your peers!

Go to **www.udpm.org**



Thank you

Slide 7 - End

Thank you.