

CONFLICT RESILIENCE PROJECT – OPENING STATEMENT CHECKLIST

(Inform the parties your **briefing** will take a few minutes and ask them to relax until you are done). *“I find it better to simply follow the checklist than wonder later if I missed anything, so bear with me.”*

HOUSEKEEPING location of restrooms, timers for need to plug parking meters

INTRODUCE yourself and parties. First names OK? Introduce observers. Explain their role.

COMMEND participants for their use of mediation. *“One small piece of business I wish to address is an evaluation of this process. At the end, I will hand you an evaluation form for your completion and for the grant funding we receive. We consider your response extremely valuable and beneficial for our ability to make the program successful.”*

PARTIES – “Is everyone here that needs to be here?” Do you have settlement authority?
[Mediation may need to be terminated and rescheduled if not]

CONFIDENTIALITY – Explain mediation is a confidential process

- Mediators cannot be required to testify;
- Notes will be destroyed;
- Place to explore options.

ROLE OF MEDIATOR

To be an impartial facilitator; not an advocate nor a judge. *We don’t judge you and honor your privacy*

To assist parties in arriving at their own solutions. *This is a safe environment to brainstorm ideas about solutions. The only decision made here will be a mutual one arrived at by all parties.*

ROLE OF PARTIES – to mediate in **good faith**; this includes

- being willing to listen, to share all pertinent information;
- being willing to keep an open mind;
- being willing to negotiate without holding to a fixed position.

[get verbal consent from each party]

AND to abide by **RULES OF COMMON COURTESY** – no interrupting or inflammatory language.

“Each party has a pen and a notepad to utilize for making notes of questions or responses to the other person’s statements without worry about remembering while letting the other person speak uninterrupted.”

ROLE OF ATTORNEYS – To advise clients – Consider using a caucus – explained later.

try to keep comments to a minimum as this is a forum for the CLIENTS to work out solutions to their problems.

THE PROCESS --

- Client Opening Statements: ***“story from your perspective (in your own words) and what you’d like to achieve at mediation.”*** and response period – emphasis on uninterrupted time
- Mediator summary (after each party’s statement); I may ask clarifying questions.
- Developing an agenda / list of items to discuss
- Negotiating issues and interests or concerns – problem solving.
- Caucus – explain options, confidentiality, and use – “time out sign”
- Settlement Agreement. Forms. Their words. Legally binding. Such an agreement has the full force and effect of the law -- holds up in court.
note: tell parties: parties can file for original amount requested in initial complaint for if no compliance with mediated agreements (part of the stipulation form).

TIME CONSTRAINTS -- We have a defined period of ___ hours here today; Ask each party if they have any individual time constraints. We can take breaks ... simply request.

QUESTIONS – Any questions about roles or the process at this time? ***“Do each of you agree to give your best effort?”***

Determine **PARTY TO BEGIN** (typically the plaintiff).