

The Mediation Process: Step One

Mediator's Opening Statement

Goals:

- Set the stage for productive, constructive dialogue.
- Educate the parties about the negotiation/ mediation process.

Steps:

- Welcome and make introductions.
- Explain the mediator's role and authority.
- Review the mediation process.
- Define confidentiality.
- Deal with logistics.
- Answer questions and get a final commitment to begin process.

Tasks:

- Establish neutrality and impartiality.
- Explain possibility of caucus.
- Establish ground rules or agreement on standards of behavior.

The Mediation Process: Step Two

Parties' Opening Statements (Storytelling)

Goals:

- Identify the issues to be addressed.
- Understand situation and context.
- Help the parties feel “heard” (active listening).
- Help parties begin to understand and respect each other’s perceptions and needs and to reduce misunderstanding.

Steps:

- Select a party to begin.
- Ask the parties open-ended questions.
- Listen, summarize key points.
- Summarize issues.
- Ask if party wants to add anything else.
- Repeat the process with the other party.

Tasks:

- Directs communication from the party to the mediator.
- Listens attentively, modeling respectful behavior.
- Names and acknowledges feelings expressed by the parties.
- Paraphrases issues.
- Summarize long, complicated descriptions of the situation.
- Verbally “underlines” conciliatory comments made by parties.
- Enforce ground rules agreed to by parties.

The Mediation Process: Step Three

Narrowing Issues and Setting Agenda

Goals:

- Identify parties' interests.
- Help the parties express their feelings productively and have these feelings acknowledged.
- Reduce parties' adversarial mind-set and begin to shift the parties to seeing themselves as joint problem solvers.
- Shift parties from focusing on the past to being present- and future-oriented.
- Clarify the parameters or boundaries of topics for discussion.
- Create an agenda for problem solving.
- Get buy-in of the parties to the tasks ahead.
- Surface other issues that have not yet been identified.

Steps:

- Ask probing and clarifying questions.
- Reframe and confirm interests of the parties.

Tasks:

- Frame the issues as a joint list, in neutral, positive terms.
- Ask parties if there is anything else that they want to address at the meeting.
- Give a final summary of the collective issues and interests expressed.

The Mediation Process: Step Four

Exploring Options

Goals:

- Develop a full understanding of the issues and concerns (underlying interests, data, relationship, values, and structural factors related to each issue).
- Build a foundation for problem solving.
- Focus the parties on their needs and interests.

Steps:

- ✧ • Put the responsibility on the parties for developing solutions.
- Keep the parties focused on trying to meet interests rather than pressing for positions.
- Help the parties think creatively.
- Focus the parties on building a desired future.
- Keep the parties from getting “stuck”.
- Keep the parties grounded in reality and practicality.

Tasks:

- ✧ • Select and frame a single issue or a group of issues to work on.
- Identify any objective standards or constraints that must be applied.
- Review the interests that must be addressed and how each option meets those interests and standards.
- Develop a safe, creative environment.
- Brainstorm multiple options.
- Fine-tune promising options or initial draft of a proposal.
- Assess their BATNA's and gains by finding workable options.
- Select and modify options in such a way as to optimize benefits.

The Mediation Process: Step Five

Final Written Agreement

Goals:

- Work through the practical realities of the agreements and what it will take to implement them.
- Provide an opportunity for review and reflection of the agreements before final signing.
- Obtain as much closure as is needed and desired.

Tasks:

- Review agreements on individual issues.
- Combine agreements into a package.
- Develop implementation plan for agreement(s).
- Guide parties in refining agreements.
- Draft final agreement.
- Provide opportunity for outside review of agreement, if needed.
- Finalize written agreement and obtain signatures.