

Opening Script

Introduce yourself and the parties. How would you like to be addressed?

Introduce Mediators-in-Training and explain their role.

Inform the parties that you will spend a few minutes describing the process and expectations. Thank them for their attention. Encourage them to ask questions.

Commend parties for their decision to use mediation.

Conflict check

- ◆ Disclose to parties if you know any of them and how you know them
- ◆ Disclose if you have mediated for the CFEB before
- ◆ If you do have a previous connection and believe you can serve impartially, let everyone know that and ask for their permission to continue

Remind parties that mediation is a voluntary process.

- ◆ Are parties here voluntarily?
- ◆ Are all parties that are required to reach an agreement present?
- ◆ What, if any, formal complaints, grievances, etc. are pending?

Explain mediation confidentiality and privilege

- ◆ Everything discussed in the mediation is confidential, except for the bulleted list in the consent to mediate form (SMC 4.04.075C). (E.g. you will not go back to work and share what was said in the mediation with your co-workers.)
- ◆ Unless agreed otherwise, mediation communications are privileged, meaning they are protected from use as evidence in other formal settings. (E.g., administrative or judicial proceedings) except for the bulleted list in the consent to mediate form. (E.g. If this issue is not resolved here, and it turns into a formal complaint, you would not be able to quote what the other party said in this mediation.)
- ◆ Mediators cannot be required to testify
- ◆ All mediator notes will be destroyed

Exceptions to confidentiality:

- ◆ Either see the consent to mediate for a full list of the exceptions or explain you will go over the exceptions to mediation when you go over the agreement to mediate

Describe role of the mediator:

- ◆ Impartial facilitator, not an advocate or judge
- ◆ Coach in helping parties arrive at their own solutions

ALTERNATIVE DISPUTE RESOLUTION PROGRAM



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Describe role of parties:

- ♦ To mediate in good faith
- ♦ Work collaboratively with the mediator(s) and the other parties to this mediation
- ♦ Share any information that will help the other party understand your perspective and reach a good agreement
- ♦ Keep an open mind
- ♦ Consider a range of options beyond the idea that you have brought with you today. (In personality disputes, this last one is often articulated as “are you willing to hear the impact your behavior has on the other person?”)
- ♦ To listen carefully to each other, speak one at a time and use language that will make it easier for the other person to listen to your point of view.
- ♦ Do we have your commitment to mediate in good faith?

Explain the process:

- ♦ Client Opening Statements, Mediator Feedback and Client Response periods
- ♦ Emphasize uninterrupted time to speak
- ♦ Developing a list of items to discuss (an agenda)
- ♦ Exploring issues and interests or concerns
- ♦ Private meetings with each party (caucus) Explain confidentiality and use. Anyone can request
- ♦ Mediation agreement, forms, and that their agreement may be enforceable under contract law and may be admissible in legal proceedings

Time Constraints?

Any Special Needs?

Questions?

Mediation Agreement:

- ♦ Read aloud to all participants. Allow parties time to read and respond to any draft agreement prior to signing
- ♦ Have all sign the original
- ♦ Distribute photocopies to all parties, Agency POC and the EEO Office

Determine party to begin.