

Play by the Rules

Worksheet 11-1: Mediation

Mediator's Role in Mediation:

Mediation is a form of conflict resolution. It involves an impartial third person, called a mediator, who assists the disputing parties in discussing and resolving their problem. The solution to the problem comes from the parties and not from the mediator. Mediators do not make decisions or give advice, but work with the disputing parties to identify two or more workable solutions.

Steps in Mediation:

1. Introduction

- a. The mediator welcomes the disputing parties and asks them to introduce themselves.
- b. The mediator explains to the parties that mediation is a voluntary process to resolve disputes.
- c. The mediator explains the five steps in the mediation process.
- d. The mediator explains to the parties that what is said during mediation is confidential and that no information that is shared will leave the room. Also, the mediator will not share information with the other party unless given permission to do so.
- e. The mediator explains and gets agreement on the following ground rules:
 - i. Everyone will remain seated during the mediation.
 - ii. Each person will have the opportunity to speak. No interruptions, name calling or put downs.
 - iii. The mediator has control over the mediation process, and the parties must follow the mediator's instructions.
 - iv. Any other rules that the parties and the mediator decide are important.

2. Telling the Story

- a. Decide who will speak first.
- b. Make sure each party has time to speak without interruption.
- c. The mediator should repeat what he or she has heard to make sure he or she has understood correctly what the parties have said.
- d. The mediator should ask questions to clarify any points.

3. Identifying Positions

- a. The mediator identifies the common problems as she or he understands them.
- b. The mediator summarizes both party's positions without emotion and gets agreement on the nature of the problem(s).

4. Identifying Solutions

- a. The mediator helps the parties brainstorm possible solutions to the parties' problem(s).
- b. The mediator then encourages the parties to think of the consequences of carrying out each of the possible solutions.
- c. The mediator asks the parties to select the most workable solution.

5. Revising and Discussing Solutions

- a. The mediator should discuss the similarities or common elements of the parties' proposed solutions.
- b. The mediator then helps the parties reach an acceptable agreement by negotiating the differences in the proposed solutions to the problem(s).

6. Reaching an Agreement

- a. The mediator helps the parties reach an agreement they can both live with.
- b. The agreement is written down (using as much of the parties' language as possible) and each party given a copy of the final version.

Scenario – Destroyed CDs:

Chris and Shaun are best friends. Chris has a great collection of popular CDs. Shaun planned a party to celebrate the end of the school year. Chris agreed to allow Shaun to borrow his CD collection for the party, but said, "Be very careful."

The party was a success. The music was great and everyone had a good time. While cleaning up, Shaun noticed that several of Chris' CDs were either missing or damaged. Shaun's little brother decided to help the DJ during the party and was careless. The CDs were cracked and/or scratched, and several were simply gone.

When Shaun told Chris about the CDs, Chris was furious. After several months working a paper route, Chris had saved his money and bought the CD collection, which was very expensive. Shaun said, "Hey, I can't help it if my little brother messed up your CDs."

In the mediation, Chris claims that Shaun owes him for the lost and damaged CDs.