

# SCORE

## PEER MEDIATION GUIDE

### FOR STUDENTS

STUDENT CONFLICT RESOLUTION EXPERTS



COMMONWEALTH OF MASSACHUSETTS

OFFICE OF ATTORNEY GENERAL

MARTHA COAKLEY



## TABLE OF CONTENTS

LESSON 1, Introduction to Mediation

LESSON 2, Building Trust

LESSON 3, Listening, Information Gathering, Communicating

LESSON 4, Mediation Step-by-Step

LESSON 5, Troubleshooting



# LESSON 1,

## INTRODUCTION TO MEDIATION

---

### INTRODUCTION

Conflict is everywhere – in homes, in communities, in schools, in places of work, and in government.

We usually think of conflict as something bad. We think of angry words, thrown punches, slashed tires, violence, weapons, or war. However, conflict can be something good. A loud argument can clear the air and help people see new ways of making things better. A community can rise up to fight City Hall and succeed in getting a toxic waste dump cleaned. Citizens can revolt against a dictator and insist on democracy. And one person, like Rosa Parks, can, by refusing to sit in the back of the bus, help move a country to acknowledge every individual's civil rights.

There are many ways to handle conflict. We can walk away from a fight because it's not worth the trouble it would cause. We can decide to fight, even if it means the consequence may be the end of a friendship or that we might end up in trouble. Or we can try to talk it out, one-on-one, with the other person.

We can also look for outside help by asking someone, a friend for instance, to act as a go-between. Sometimes we get outside help we did not ask for from a principal, a boss, a police officer, a judge, a parent, or an older sibling who steps in and decides for us what will happen. We can also get outside help from someone called a mediator.

## MEDIATION

Today around the world, mediation is an accepted way of handling conflict.

- World leaders use mediation to resolve disputes between neighboring countries. Communities and governmental agencies use mediation to settle disputes about issues that cause conflict.
- People who know each other – such as neighbors, landlords and tenants, friends, and co-workers – use mediation to resolve their differences instead of going to court.
- Families use mediation to deal with the conflicts that arise between parents and their teenage children. Divorcing couples use mediation to work out an agreement to present to the court.

Even schools – elementary, middle and high schools – have programs that use trained students (peer mediators) to mediate school-based conflicts. The **STUDENT CONFLICT RESOLUTION EXPERTS (SCORE)** program is one of these programs.

## THE QUALITIES OF A MEDIATOR

There are many qualities and skills that are part of the personality of a mediator. The successful mediator is:

### **NEUTRAL:**

- Does not take sides and does not know the parties or their dispute.
- Does not let personal feelings about the parties affect the mediation work.

### **A GOOD LISTENER:**

- Gives the parties physical signs to let them know that he or she is listening, such as looking the parties in the eyes, sitting facing the parties in an open posture, nodding his or her head occasionally.
- Finds out relevant information.

### **ABLE TO CREATE TRUST:**

- Makes the parties feel like he or she understands their thoughts and feelings.
- Makes the parties feel comfortable.
- Give the parties the chance to make their own decisions.
- Is truly interested in helping the parties resolve their dispute.

### **SELF-AWARE:**

- Pays attention to how he or she feels about different things so that he or she does not treat the parties unfairly without realizing it.

**PROFESSIONAL:**

- Takes his or her work seriously.
- Is prepared and on time.
- Is respectful to the parties at all times.

**CREATIVE:**

- Can help the parties brainstorm possible solutions to help them resolve their dispute.

**PERSUASIVE:**

- Is able to convince parties to be flexible and compromise.

**NON-DEFENSIVE:**

- Does not let personal attacks by the parties affect his or her work.

**PATIENT:**

- Is willing to continue to help the parties even though the session may seem to be taking a long time or parties are inflexible.

**FLEXIBLE:**

- Is able to adjust the mediation process in order to meet the needs of each situation.

All peer mediators are expected to accept and practice the following guidelines to the best of their abilities:

- Uphold the confidentiality of all mediation sessions.
- Follow the rules and regulations of the school.
- Attend all training sessions, on time, fully prepared and ready to participate.
- Treat all people with respect.
- Attempt to work up to his or her potential in all classes.
- Refer a situation involving child abuse, substance abuse, suicide, or physical violence to the SCORE coordinator.

Remember, peer mediators can be role models. The actions of one person can reflect upon the entire peer mediation program, so mediators should exercise good judgment in and outside of school.

## THE JOB OF A MEDIATOR

A mediator is a neutral person, someone not involved in the dispute, who helps people come to their own decision about how they want to resolve their conflict. A mediator listens to people talk about what went wrong between them and then helps them figure out ways to put things right again.

When mediators work with people, there are four principles they always follow:

**NEUTRALITY.** This means that mediators will treat each person equally and fairly. They will not take sides, play favorites, or decide who is right or wrong.

**SELF-DETERMINATION.** This means that mediators will respect the parties' right to decide for themselves how to settle their differences. Mediators do not give advice or make suggestions, nor do they decide what the agreement will say.

**CONFIDENTIALITY.** The promise of confidentiality guarantees that mediators will not share information about what happened or what was said in mediation except with their mediation staff person. In addition, during a mediation session, mediators will not tell one party what the other party said unless they are given permission to do so. We will discuss confidentiality more in depth later in this lesson, and throughout all lessons.

**VOLUNTARY CONSENT.** Voluntary consent is the principle that people should not be forced to come to mediation and, when they get there, should not be forced to sign an agreement.

While conducting mediations, a student mediator must:

**BUILD TRUST.** The first job, and one that continues throughout the mediation session, is to build trust with the parties so that they will let the mediators help them work out their differences.

**COLLECT INFORMATION.** The second job for mediators is to collect information that will give them clues as to how to help the parties.

**SHARE INFORMATION.** The third job is to encourage the parties to share information to help them understand the other's perspective.

**PROBLEM-SOLVE.** Once the mediators and the parties have all the necessary information, the last job is to help the parties problem solve different ways their conflict could be resolved, until they reach an agreement.

We will discuss these tasks more in-depth in lessons to come.



## **CONFIDENTIALITY POLICY**

All mediators must adhere to the following confidentiality policy:

Peer mediation is a form of conflict resolution in which trained student leaders help their peers work together to resolve everyday disputes. Participation in peer mediation is voluntary, and with the exception of information about conduct that is illegal or life-threatening or in cases of suspected abuse or neglect, all matters discussed in mediation sessions remain confidential.

Peer mediators discuss the information related to a mediation with the SCORE coordinator (only) for the purpose of receiving guidance and support to successfully and safely resolve the dispute.

All information regarding people who use, request the use of, or are referred to the program must be treated as private and confidential. Peer mediators may not divulge any such information to anyone outside the program in any way.

Peer mediators do not talk about the mediation with any of the following: faculty, staff and administration of the school (with the exceptions noted above); their friends; their parents; or with the disputants outside of the mediation process.

Student mediators do not make judgments or offer advice, and they have no power to force decisions upon their peers.

Before receiving a certificate of completion of the mediation training, all mediators must read this policy and sign the **CONFIDENTIALITY AGREEMENT**, found on the following page.



## CONFIDENTIALITY AGREEMENT

**CONFIDENTIALITY POLICY.** All mediators must adhere to the following confidentiality policy:

Peer mediation is a form of conflict resolution in which trained student leaders help their peers work together to resolve everyday disputes. Participation in peer mediation is voluntary, and with the exception of information about conduct that is illegal or life-threatening or in cases of suspected abuse or neglect, all matters discussed in mediation sessions remain confidential.

Peer mediators discuss the information related to a mediation with the SCORE coordinator (only) for the purpose of receiving guidance and support to successfully and safely resolve the dispute.

All information regarding people who use, request the use of, or are referred to the program must be treated as private and confidential. Peer mediators may not divulge any such information to anyone outside the program in any way.

Peer mediators do not talk about the mediation with any of the following: faculty, staff and administration of the school (with the exceptions noted above); their friends; their parents; or with the disputants outside of the mediation process.

Student mediators do not make judgments or offer advice, and they have no power to force decisions upon their peers.

**INSTRUCTIONS:** Print your name on the line below. Read and sign and date on the lines at the bottom of the page, to note that you have read and understand the confidentiality policy.

I, \_\_\_\_\_, understand the Confidentiality Policy and understand the limits of confidentiality. I promise to keep confidential, within the bounds of the confidentiality policy, all information entrusted to me during mediation. I also promise that during the mediation, I will not share information from either party without the other's expressed consent. I accept the responsibility of trying to be the best mediator that I can be in order to ensure the success of my school's program.

Name (please print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# LESSON 2,

# BUILDING TRUST

---

## STAYING NEUTRAL

One of the most important ways to build trust is to stay neutral, which can be a very difficult thing to do. When the parties start to tell you what happened, it is natural to have opinions about who is right or wrong and it is not unusual to like one person more than another. It is often easier to tell people what you think they should do than it is to keep your opinions and your advice to yourself. However, if you want the parties to trust you, you have to fight these instincts and find some way to let the parties know that:

- You will listen to each side;
- You will work equally hard for everyone involved;
- You will work for a solution that the parties – not you – think is fair;
- You will not take sides;
- You will not decide who is right or wrong;
- You will not tell people what to do; and
- You will not be affected by differences in race, ethnicity, gender, age, disability, sexual orientation, religion, culture, or economic status.

Neutrality can be expressed through your tone and word choices as you communicate with each party.

### USING NEUTRAL LANGUAGE

The language used when asking questions, making comments, or summarizing can have a significant impact on trust and cooperation when working towards an agreement. Some guidelines for using neutral language:

1. Try not to ask questions that sound like you are placing blame. Avoid asking, “Why did you...” or “Why didn’t you...” Instead, if you need to know why, try asking, “Could you tell us more about...”
2. Try not to tell people what you think they should or should not have done, because this may sound like you are judging them. For example, “Friends shouldn’t treat each other that way.” Instead, try asking an open-ended question like, “How do you think your friend feels about what happened?”
3. Try not to sound like a lawyer in a courtroom. Interrogating a party may make them feel defensive. For example, “Where were you when Missy’s locker was broken into?” Instead, remember that you do not have to prove what each side did, and neither do they.

Remember, you are not being neutral if you tell people how you think they should solve their problems. It’s important for the disputants to have ownership in their solutions. Avoid questions like, “Why don’t you give her back the iPod?” Instead, give the parties the responsibility and opportunity to solve the problem by asking, “How do you think this could be resolved?”

### LISTENING CAREFULLY

One of the most direct and basic ways to build trust and confidence in the mediation program is to listen as the parties are speaking to you. When they come to mediation, each party is often very upset and needs to talk. To encourage the parties to speak freely, show that you are listening by:

- Looking at them while they speak;
- Nodding your head or giving verbal prompts to encourage them to continue; and
- Trying not to interrupt or ask a question until they are finished.

When a person is finished talking, ask questions to clear up anything you do not understand. This shows that you are paying attention and want to get it right.

When one party has finished describing his or her side of the story, briefly summarize what you heard before moving on to the next person. Reiterating aloud the points just stated to you illustrates that you heard and understood their words.

### SHOWING UNDERSTANDING

People often come to mediation full of emotions like anger, hurt, or frustration, and they are often seeking someone who can understand how they feel. When a party expresses these emotions, try to show your understanding by saying something like, “So, it sounds like it really hurt when he did that, because you thought he was your friend.” A statement like this does not mean you are taking one side or that you agree with one party’s point of view; it just means that you understand their expressions of emotion.

### BEING HONEST AND OPTIMISTIC

To maintain trust, always be honest with the parties and do not mislead them about what you are doing or about what will happen. When sharing information from one party to another, do not exaggerate what people say they will do. For instance, you should not say, “John is really sorry for what he did,” unless John said that he is “really sorry.”

Try to be positive. It should not surprise you that people think mediation will not work or that one party doubts the other party will do what she or he agreed to do. But you can tell parties that mediation does work.

### BEING RESPECTFUL

One of the things participants tend to appreciate most about mediation is how the mediators treat each person with respect. Mediators show respect by:

- Standing and shaking hands when parties enter;
- Being calm and polite;
- Explaining everything that will happen;
- Understanding people’s need to be heard; and
- Allowing people to make their own decisions.

### MAINTAINING CONFIDENTIALITY

As discussed in **Lesson 1**, confidentiality in mediation means not sharing information that a party wants you to keep private with anyone other than the adult SCORE coordinator.

Maintaining confidentiality is very important in gaining and keeping the trust of parties, but there are limits to confidentiality. It is important that, when mediating, you let the parties know

about these limits at the beginning of the mediation, so that they do not feel betrayed later on if you need to share information with the adult SCORE program coordinator.

In general, limits to confidentiality include situations where a party shares information that causes you to be concerned about the person's safety or someone else's safety. If you have these types of concerns during mediation, you must share them with your SCORE coordinator. The coordinator might then be required by law to pass along the information to adults outside of the mediation program.



# LESSON 3, LISTENING, INFORMATION GATHERING, COMMUNICATING

---

## WHAT YOU NEED TO KNOW

Begin your mediations with the following questions in mind:

**WHAT HAPPENED?** You need to know what happened from each person's point of view.

**WHY DID IT HAPPEN?** You need to try to find out why it happened. What really caused this dispute? Mediators try to get to the bottom of what happened and get out all the issues, so that everything can be talked about and resolved.

**WHAT DO THE PARTIES NEED?** Try to help the parties identify what has to happen in order for the parties to put this conflict behind them. What do they need from each other? What does each person need to see in the agreement?

**WHAT ABOUT THE RELATIONSHIP BETWEEN THE PARTIES?** How do they know each other and for how long? How well did they get along? If they were good friends once, they may want to be friends again, and if you can get them to say that, you will have helped them to take a big step towards an agreement. (But do not try to force them to be friends if that is not what they want.)

As you are gathering the information you need, make note of:

- 1) What are the positive things that each party has said? Keep track of positive things people say, such as, “I know I shouldn’t have yelled at Cynthia like that,” or, “Melissa really is a nice person.” When you can tell one side some of the positive things the other side said, it often helps everyone feel less angry and more willing to agree. Remember confidentiality – you may only share information that a party has agreed to share.
- 2) What are parties willing to do? Besides finding out what parties need, you also want to find out what the parties are willing to do in order to get what they need. A mediator uses questions like, “What do you want?” and, “What are you willing to do?”

### TIMING

There will be times when you meet with everyone together in joint sessions and times you meet with each side alone in private sessions. This means that some of your attempts to get information will take place when both parties are in the room, while others will happen when you are talking to the parties individually.

When deciding which questions to save for the private sessions, keep in mind many people have difficulty resolving conflict because they resist being the first party to compromise. Each person needs a way to save face. Sometimes it is easier for people to admit they did something wrong and to agree to do something about it when the other side is not in the room. All decisions about when to ask questions are up to you.

### TAKING NOTES

You should let the parties know why you are taking notes (to ensure that you have a record of important points, so as not to rely solely on your memory later), and that you will destroy them after the mediation session. Try to write down all the important things you hear, not necessarily word-for-word, but at least some key words to help you remember what was said. Keep in mind that you do not want to be writing all the time, because it is important to keep eye contact with the person who is speaking.

Some mediators take notes by dividing their paper in two, lengthwise, keeping notes about one person on the left side and the other on the right side of their paper. Other mediators develop a shorthand system, using abbreviations for frequently used terms. Still other mediators prefer to use a formal outline format. Use whichever note-taking technique is comfortable for you.

## SHARING INFORMATION

It is often helpful for a mediator to let each party know the positive things the other party said, such as, “Cynthia said she knows she shouldn’t have yelled at you the way she did.” It is even better if the parties share the information themselves; try a statement such as, “Would you be willing to tell Melissa what you told us about how you enjoyed being in the play with her?”

Remember to adhere to the confidentiality policy when deciding what and when to share. Below you will find a list of some of the types of helpful information to share and some advice about when to share information:

- 1) Share positive things that are said: “He told us he was sorry that you’re not friends anymore.”
- 2) Share explanations. For example, if you find out why someone is behaving the way he or she is, share it: “Danielle was upset at what you said about her and she said that’s why she wrote on your locker. She wants to know why you said what you did.”
- 3) Share feelings that people express about what happened: “She said it hurt her when you did that because she was hoping you could be friends.”
- 4) Share ideas for solutions. It helps to show that the other side is trying to work it out with a statement like: “He has agreed to most of what you asked for.”

**HELPFUL HINT:** If you have information to share with someone, be sure to pick the right moment to do it. Wait until that person is calm enough to really hear the information. Sometimes if you let parties talk about their issues and their feelings first, they are much more willing to listen to the information you have to share about the other side afterward.

## PROBLEM SOLVING

Reaching an agreement between two people who come to mediation can require a lot of problem-solving. They may need help looking at new and different ways to settle their dispute. While you should not suggest solutions, there are many other things you can do to help.

**ENCOURAGE FLEXIBILITY.** Try not to let the parties get locked into thinking that their way is the only way to resolve the dispute. Let them know that there will have to be some give and take: “We’ll talk to her about your ideas, but we need you to keep an open mind and listen to her ideas too.”

**ENCOURAGE MULTIPLE CHOICES.** Help the parties come up with several different ways to resolve things: “Is there any other way this could be resolved?” You can try brainstorming a list of solutions and have them pick the best ones.

ASK “WHAT IF” QUESTIONS. “What if” questions help people to:

- Think about trade-offs: “What if he does what you want, will you do what he wants?”
- Compromise: “What if he can’t pay you all the money but is willing to give you some of it?”
- Come up with new ideas: “What if she won’t agree to this, is there something else she could do?”

TEST REALITY. There may be times when you think someone is asking for something unrealistic or you feel it is possible that things did not happen the way a person thinks they did. If so, you might try to question his or her point of view by carefully asking: “Do you think she is going to agree with this?” or, “Is it possible that someone else took your jacket?”

# LESSON 4, MEDIATION STEP-BY-STEP

---

## STAGES OF MEDIATION

In general, the stages of mediation are:

- The Introduction
- The First Joint Session
- The Mediators' Break
- The First Private Sessions
- Later Private Sessions
- The Last Joint Session
- The Written Agreement

First, mediators meet with everyone together in what is called the first joint session. You will have a partner, a co-mediator, when you mediate. Later, the mediators meet with each person individually in private sessions. After the private sessions, people usually come back together for the last joint session to work out the final details of their agreement. In between the joint and private sessions, mediators meet by themselves in the mediators' break to plan what they are going to do next.

If we look at the four jobs we discussed in **Lesson 1** and think about at which step each job is done, we would see the following:

- Most of the **TRUST BUILDING** takes place during the introduction and first joint session and continues throughout the process;
- Most of the **INFORMATION COLLECTION** takes place during the first joint session and the private sessions;
- Most of the **INFORMATION SHARING** between the parties takes place in the private sessions (when mediators do it) and the last joint session (when the parties do it); and
- Most of the **PROBLEM SOLVING** happens in the private sessions and the last joint session.

## THE INTRODUCTION

The introduction is your first opportunity to build trust. The purpose of the introduction is to explain to people what mediation is and what will happen during the mediation session. The way you present your introduction – your tone of voice and the words you use – can set the stage for the entire mediation.

The steps of the introduction are listed below. These are the points you should include in your introduction; please practice saying them in your own words.

**STEP 1, WELCOME.** Thank everyone for coming. Introduce yourselves and ask others to do the same.

**STEP 2, DESCRIBE MEDIATION.** Explain that:

- Mediation is a way for people to resolve conflict.
- In mediation, the parties decide what will happen, not the mediators
- When the parties agree on how to settle their dispute, you will help write an agreement for them to sign.

**STEP 3, DESCRIBE YOUR ROLE.** Explain that:

- Mediators are not judges and that you do not decide who is right or wrong.
- Your job is to listen to them and to help them think of many different ways to settle their dispute until they can agree on one way.

**STEP 4, DESCRIBE THE STEPS OF MEDIATION.** Explain that:

- Each person first tells what happened from his or her point of view and also might give some ideas for resolving the conflict.
- Later you might speak to each person alone.

**STEP 5, EXPLAIN CONFIDENTIALITY.** Explain that:

- Confidentiality in mediation means not sharing information that a party intends for you to keep private.
- There are limits to confidentiality and identify those limits (as listed in **Lesson 1**).
- You will take notes to keep track of what is said and that you will tear up your notes at the end.

**STEP 6, DISCUSS THE GROUND RULES.** Discuss how the ground rules help the mediation to move forward. Identify the basic ground rules and ask both parties if they agree to them, and ask if there are others they should include. Some suggestions for ground rules:

- Please listen to one another.
- Please speak one at a time.
- Please talk respectfully to and about one another.
- Please be flexible and open to finding an agreement.

**STEP 7, ANSWER QUESTIONS.** Some common questions are: “How long will this take?” and “What if he doesn’t do what he says?” Answer all the parties’ questions to the best of your ability.

If you’re unsure or don’t know the answer, respond with, “I don’t know the answer to your question right now, but I will check with the coordinator and get back to you.” Be sure to follow up – ask the coordinator and respond in a timely manner. Following through on your promise of more information helps to build trust.

*In terms of how long mediation will take, it is important to let the parties know that there is no set amount of time, and that you will work with them for as long as they need to come to a resolution of their conflict. You could let them know that you will meet with them over several different sessions to help them resolve the conflict if necessary.*

*In the event that one party breaks an agreement, it is important to let the parties know that they can return to mediation to try to work out another agreement.*

## THE FIRST JOINT SESSION

The purpose of the first joint session is to give each party a chance to say what is on their minds. People are often angry and upset at the beginning of mediation, so it is important that they get things off their chest and feel they have been heard.

Your job will be to continue to build trust and begin to collect information, and you will need your listening and communication skills to do it. It is especially important at this stage to remain neutral, allowing each person the time they need to talk, and using neutral language in your questions. Be sure to go through these exact steps with each party, one at a time. The steps of the first joint session follow.

**STEP 1, ASK FOR THE PARTIES' STORIES.** Let the parties tell you what happened from their points of view. Listen carefully without interrupting: "Tell us what happened."

**STEP 2, ASK QUESTIONS.** Ask questions to get more information if you need it:

- "Can you tell us more about...?"

Ask questions to clear up anything you do not understand:

- "I'm confused, what did you mean when you said...?"

Ask questions to learn about the relationship between the parties:

- "How long have you known each other?"
- "How did you two get along before this?"

**STEP 3, SUMMARIZE WHAT EACH PARTY SAID.** When you and your co-mediator are finished with each person, repeat back to them the important points and any positive things you heard. You do not have to use their exact words – especially if they were negative – but make sure you get it right: "Let me go over what I heard..."

**STEP 4, ASK HOW THE CONFLICT CAN BE RESOLVED.** At some point during the first joint session, you will want to get an initial sense of what each party wants out of the mediation and how each party wants the conflict resolved. Remember our lesson on timing – be careful when you ask, because upset parties may make unrealistic demands that might just make the conflict worse. One way to explore solutions is to do it after the parties have heard each other's stories. At this point, go back and ask them, one at a time, how the situation could be resolved: "How do you think you two can settle this?"



**STEP 5, DECIDE ABOUT THE MEDIATORS' BREAK.** If the parties are not too angry and if the issues are not too sensitive, you might decide to continue working in a joint session. If, however, you think it would be better to work with each person in private, or if you are just not sure what to do next, now would be a good time to take a mediators' break.

### **MEDIATORS' BREAK**

Before you meet with the parties again, either alone or together, take the time to plan with your co-mediator exactly what you want to do in the mediation session. Be sure to listen to each other's ideas and try to come up with a plan that both of you think will work. The steps of the mediators' break are listed below. Ask yourselves:

**STEP 1, WHAT DO WE KNOW?** Review your notes to be sure you both heard the same thing.

**STEP 2, WHAT DO WE NEED TO ASK?** Try to think of open ended questions that will get the party to talk. Develop questions to get out what the party is feeling. Questions regarding the parties' shared history will be helpful.

**STEP 3, SHOULD WE SEE THE PARTIES ALONE OR TOGETHER?** We highly recommend the use of private sessions in mediation. By using private sessions, you will allow yourself the opportunity to gather additional information that the parties may not feel comfortable sharing in a joint session. Often parties are more likely to share their true sentiments about the conflict and their ideas for resolving it in a private session, and this information will help you to better assist the parties.

If you decide to move into private sessions, you will have to decide who to see first. Here are two ways to think about this:

- Usually, you choose to see the person who can give you the information you need most.
- Sometimes you choose a person who was very quiet in order to find out more; or conversely, choose a person who was very upset to help calm him or her.

**STEP 4, WHICH MEDIATOR WILL DO WHAT?** Make sure to divide up the work that has to be done. If you are having any problems or disagreements with your co-mediator, talk about them now. Never argue in front of the parties. This is also a good time to talk with your co-mediator about how you are feeling about the parties and/or about the issues they are raising in the mediation.

## **FIRST PRIVATE SESSION**

The purpose of the first private session with each of the parties is to give them a chance to say the things they might have been uncomfortable saying in front of the other side. Take this opportunity to remind them about confidentiality, saying that if they ask you not to repeat something they tell you in private, you will honor that request within the limits you explained. The steps of the first private session follow.

Be sure to follow the same steps with the second person you see in private. Do not start the private session by telling the second person everything the first person said, because he or she might feel that you have taken sides.

**STEP 1, REVIEW NOTES FROM THE FIRST JOINT SESSION.** By summarizing the statements made in the first joint session and restating them to the party, you are illustrating that you have listened and understood up to this point. It provides a good starting point to get back into the mediation.

**STEP 2, ASK IF THEY HAVE ANYTHING TO ADD FROM THOSE STATEMENTS MADE IN THE JOINT SESSION.** This question gives the parties a chance to let off more steam, if this is what they need. It also opens the door for them to say anything they did not want to say in the joint session.

**STEP 3, FIND OUT HOW THE PARTIES ARE FEELING.** Sometimes people are very angry or very hurt and it is helpful to let them talk about it. Meanwhile, you might learn that the real problem is not the fight that happened yesterday, but some misunderstanding that happened a year ago that the parties never resolved.

Consider other ways to ask than, “How did that make you feel?” Sometimes you may want to try something else more prompting, like, “You sound really angry right now,” or, “What I’m hearing you say is that the fight really upset you. Is that right?”

**STEP 4, ASK YOUR QUESTIONS.** In your mediators’ break you listed the questions you wanted to ask. Now is the time to ask them.

**STEP 5, ASK – AGAIN – HOW TO RESOLVE THE DISPUTE.** In private sessions people are sometimes more open to compromise than they were in the joint session when the other side was present. Always ask again, “How do you think this can be resolved?”

**STEP 6, ASK WHAT THE PARTIES CAN DO.** If the answer to the last question only mentions things the other side should do, ask them, “What can you do to help resolve this?” This also helps the parties to realize that there will have to be some give and take on their part to resolve the conflict.

**STEP 7, ASK THE PARTIES IF THEY WILL SHARE INFORMATION.** If a party said something positive that you believe is important for the other side to hear, ask if he or she is willing to share it in the next joint session. Or, ask the person if you can share it.

**STEP 8, SUMMARIZE THE PRIVATE SESSION.** When you are ready to end the private session, summarize:

- Brief statement of conflict;
- History of relationship;
- What people want; and
- What they are willing to do.

**STEP 9, CHECK FOR CONFIDENTIALITY.** Before you end the private session, ask if there is anything you should not repeat to the other side.

### LATER PRIVATE SESSIONS

If at the end of your first private session with each party there are still some strong disagreements or angry feelings, you may need to have more private sessions before bringing the parties together. The steps of the later private sessions are listed below. In these later private sessions you should:

**STEP 1, SHARE INFORMATION.** First, you want to bring the person you are with up to date on what you have learned from the other party. Start with the positives:

- Regrets the other party has about what happened;
- Comments made about a good past relationship;
- Explanations of why things happened the way they did; and
- Feelings the other party expressed about what happened.

**STEP 2, CHECK FOR AGREEMENTS.** After you share any positives, you should note the parties' reactions. It is not unusual for people to change their mind about what they said they want once a mediator has skillfully shared information learned in private sessions.

**STEP 3, PROBLEM SOLVE.** Work on any remaining disagreements. Keep encouraging flexibility. Try doing some reality testing or ask the parties to brainstorm other possible ways of settling the dispute.

**STEP 4, PREPARE FOR LAST JOINT SESSION.** Help the parties think about what they want to say to each other when they come together at the end of the mediation.

### THE LAST JOINT SESSION

The purpose of the last joint session is to give the parties a chance to say things to one another that they may have been too upset to say before and to work together to write down the agreements they have made. The steps of the last joint session follow.

**STEP 1, SUMMARIZE PROGRESS MADE.** Usually some of the issues have been resolved and you should start out by letting people know this.

**STEP 2, SHARE INFORMATION.** Encourage the parties to share with one another some of the positive things they said to you in private (or, if they prefer, you do it).

**STEP 3, DISCUSS CONFIDENTIALITY.** Ask them what they will say to others when asked what happened in mediation.

**STEP 4, WRITE THE AGREEMENT.** Write down everything they have agreed to, letting the parties help you with the wording. This is discussed in depth later in this lesson.

**STEP 5, CLOSE THE MEDIATION.** Thank everyone for their hard work and wish them good luck.

## THE AGREEMENT

While you are helping people work towards an agreement, remember two things:

- 1) No one should ever feel forced into signing an agreement. Mediators should always respect people's right to make decisions for themselves, including decisions about how and if they want to settle their dispute. Do not start arguing with the parties when they cannot reach an agreement.
- 2) It is not important for the mediators to think the agreement is fair. As you learn in mediation training, people can have values that are very different from yours, and if they do, they may also have different ideas about what is fair, and what they need to resolve their dispute. Your responsibility is to be sure that both the parties think the agreement is fair and likely to work.

There are a number of guidelines for writing an agreement:

- 1) **KEEP IT SHORT AND SIMPLE.** You do not need to use big words or long rambling sentences. Number and separate each item in the agreement.
- 2) **MAKE IT EXACT.** Write in dates, times, and places if they are needed. Use the parties' names and not pronouns, for example: "Vanessa agrees to pay Julia \$25 by Saturday, June 6th."
- 3) **MAKE IT POSITIVE.** Continue using the same kind of neutral language you have been using all along. Sometimes it is nice to put in something like, "Cathy and Laurie both feel sorry about what happened."
- 4) **MAKE IT CLEAR.** People need to know exactly what is expected of them. Make sure parties agree to definition of terms. For example, you would not want to write something like, "Carlos agrees to stop annoying Tina," because "annoying" may mean one thing to Carlos and something entirely different to Tina. The agreement should be clearer, such as, "Carlos agrees to stop waiting by Tina's locker."
- 5) **KEEP IT BALANCED.** Try to avoid writing the agreement in such a way that one person seems to be doing a lot more than the other. You can try saying, "Both Carlos and Tina agree..." You can also take turns like this:
  - "Carlos agrees..."
  - "Tina agrees..."
- 6) **KEEP IT NEAT.** We recommend that you type the agreement, to ensure that it can be read by the parties. Be sure to spell names correctly, to use proper grammar, and to organize it in a logical order.



# LESSON 5, TROUBLESHOOTING

---

---

## DEALING WITH ANGRY PARTIES

Sometimes, especially in the first joint session, emotions can run so high and people can be so angry that they start yelling back and forth and interrupting one another. While you want people to express their feelings, you do not want things to get out of control.

If you think you need to step in, try to stay calm and keep an even tone to your voice. You do not want to sound as though you are yelling or trying to force the parties to keep quiet.

Here are some ideas you can try when working with angry parties:

- Keep your voice calm and low.
- Tell the parties that you understand how upsetting it can be to hear things they disagree with and that this is normal at the beginning of mediation.
- Explain that it is hard for you to hear when they both speak at once. Tell them you want to understand what happened.
- Tell them to write down what they want to say and that you will get back to them.
- Gently remind them of the ground rules you established at the beginning of the mediation.

- Ask someone a question to distract him or her from yelling.
- Ask them to look at you and speak to you rather than to one another.
- Call them by name to get them to focus on you instead of each other.
- Continue to encourage the parties to share stories out and keep summarizing what you have heard, especially those things the parties have in common.

If you are concerned about safety or that the situation will get out of control, tell your SCORE coordinator immediately.

### STRATEGIES FOR MANAGING CONFLICT

When someone is very upset with you, there are some basic techniques you may use to help defuse rather than inflame the situation:

- Be respectful, no matter how angry you are.
- Listen intently, without attitude and without interrupting.
- Take a time out, if needed, to cool off and plan how you want to respond to what was said.
- Summarize what you've heard. Be sure to include the feelings and concerns that were expressed, and summarize in a neutral manner (don't repeat any name-calling or other disrespectful statements).
- State your feelings and concerns without placing blame on either party. Begin your statements with, "I wish," and, "I feel," instead of, "You did," or "You are."
- Emphasize needs rather than complaints. Look for shared needs among parties.

### CONCLUSION

This guide is only the beginning. Your SCORE coordinator is available to you to answer questions and resolve problems related to mediation. In addition, your coordinator will offer ongoing guidance and additional training to all peer mediators throughout the year.

Mediation is a valuable tool for reducing conflicts and increasing a climate of respect, acceptance and safety. Thank you for your willingness to help your friends and help your school. Your efforts as a mediator are much appreciated.







**OFFICE OF ATTORNEY GENERAL MARTHA COAKLEY**

Community Information and Education Division

One Ashburton Place

Boston, MA 02108

(617) 727-2200

[www.mass.gov/ago](http://www.mass.gov/ago)