

# Interlocal Conflict Resolution Group Opening Statement Checklist

**Introduce yourself to the parties.** How would you like to be addressed? **Introduce observers** and explain their role.

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

**Commend** the participants for their decision to use mediation.

**Conflict Check:** Disclose to the parties if you know any of them or have mediated for their jurisdiction or Union and ask permission to continue with the mediation; e.g., "In the past I have mediated a case with X (City of Tacoma or Bob Smith). I have no current connection, economic or otherwise, with (organization or person X). I feel I am able to serve impartially in this case. Does anyone have any objections?" Or withdraw if you cannot serve impartially.

**Remind** the participants that this is a voluntary process.

- Are participants present voluntarily?
- Are all participants that are required to reach agreements present?
- What, if any, formal complaints, grievances, etc. are pending?

**Explain mediation confidentiality and privilege.**

- Confidentiality. By signing the Agreement to Mediate, you agree that communications during mediation are confidential. (Mediators: it is best practice to revisit confidentiality at the end of the mediation.) Mediators will destroy their notes at the end of the mediation and will not discuss your case outside the Program.
- Privilege. Mediation communications are protected from use as evidence in other formal settings (e.g. administrative, arbitral or judicial proceedings) unless the information is otherwise subject to discovery, as outlined in the Uniform Mediation Act, RCW Chap. 7.07.
  - Pre-existing documents like emails or memoranda cannot be made privileged because they may be obtained in other ways.
  - The Agreement to Mediate and the Settlement agreement are not confidential or privileged.
  - If parties require a greater discussion, be prepared to discuss all exceptions to privilege in the Uniform Mediation Act, RCW Chap. 7.07. (See additional information in file.)

**Describe the role of the mediators:**

- To be an impartial facilitator, not an advocate or judge.
- To assist the parties in arriving at their own solutions.

**Describe the role of the parties:**

- Be willing to listen;
- Share anything that will help the other person understand your perspective and reach a good agreement;
- Keep an open mind; and
- Consider a range of options beyond the idea that you have brought with you here today. (In personality disputes, this last point may be 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.

**Explain the process:**

- Client opening statement, mediator feedback and response period, emphasis on uninterrupted time.
- Developing an agenda/list of items to be discussed.
- Negotiating issues and interests or concerns.
- Caucus (optional). Explain confidentiality and use. Anyone can request.
- Settlement agreement. Forms. Their agreement. May be enforceable under contract law and admissible in legal proceedings.

**Time constraints? When do parties take breaks?**

**Any special needs? Questions? Remind parties to turn off their cell phones.**

**Read Mediation Agreement.** Have all participants sign the original. Photocopy and distribute to participants.

**Determine who will begin.**