

MODEL MEDIATOR'S OPENING STATEMENT

Good afternoon, my name is _____ and I am serving as your mediator today. I am a [certified*] mediator trained to assist in resolving disputes such as the one before us today. I am pleased to be here to assist you in working through your issues and believe you will find mediation to be a very helpful process. Thank you for committing to be here today.

If any of you have a special need during the session, please let me know now or at any time during this session. Also, please silence all electronic devices during this mediation.

How would each of you like to be addressed in our session today?

Do you have the authority to settle and sign an agreement if one is reached?

Let me begin by stating that I am not acquainted with the parties involved in this dispute.

Have any of you met me before this session?

Mediation is a voluntary process in which a neutral, impartial person assists parties who want to generate options for resolving their issues.

Are you all here voluntarily?

My role as the mediator is to facilitate the discussion and negotiation and help you capture any agreement into appropriate settlement terms. Your attendance at this mediation does not imply any admission of guilt or wrongdoing. If you would like to take a break, meet with me privately, or end the mediation, please let me know and we'll address those matters at that time.

My goal is to assist each of you in communicating clearly with one another and reaching a mutually acceptable settlement of this matter. I am not here to represent any particular side and will not provide advice or guidance. You are entitled to seek representation and subject matter experts that can be called to provide information, if necessary. I have no power to impose a decision on you or to decide how this matter should be settled. This is where mediation differs from other forms of dispute resolution. You are empowered with the ability to design your own solution that meets your needs and addresses your interests.

Did each of you receive a letter or in-brief outlining what you can expect in a mediation session and asking you to verify that you willingly accept the opportunity to participate?

Each of you signed agreements to participate in good faith. "Participating in good faith" means that you are entering with an open mind, that you will be respectful of the other person, and that you will listen to one another.

Are you here in good faith?

Before I discuss the mediation process, are there any questions about what I've covered so far?

Before we begin, let me explain the process we will use. When I complete these preliminary remarks each of you will have an uninterrupted period of time to explain what brought you to this session and to describe the problem as you see it. It is customary for the party that brought the matter to our attention to begin first, therefore, [NAME] I will ask you to begin. When you have completed your opening remarks, I will ask [NAME] to make an uninterrupted statement. Let's abide by the rules of common courtesy and avoid interrupting or using inflammatory language. After you have both given an overview, we will transition into a joint discussion where we can more fully discuss the nature of the workplace dispute as well as negotiate possible solutions to resolve it. I ask that each of you be thinking of how you might like to resolve this matter. At some point, I may meet with each of you separately. This is called a "caucus," or individual meeting. I will use the caucus to help clarify some concerns I may have as we talk, and to be of more assistance in helping you resolve your dispute. Either one of you may call a caucus as well if you feel you would like to share something in confidence, remember you both control the outcome of the mediation. We may use the caucus any number of times. If I caucus with one party, I will also caucus with the other. Please do not assign significance to the length of each caucus. The information you share during the caucus is also confidential and will not be shared during joint discussion unless you specifically give consent to such disclosure.

Confidentiality is a critical part of the process. Generally, if you tell me something in private and ask me to keep it confidential, I am bound by law not to disclose this information voluntarily. There are some exceptions to this rule, but I do not expect them to arise during our mediation. For example, if you confess to or allege the commission of a criminal offense, or to an act of fraud, waste, or abuse, or that you plan to commit a violent physical act, I may be required to share this information with appropriate authorities. You will see me taking notes during the session, which are just for me to organize my thoughts. I have provided paper for you to take notes, too. I encourage you to record any notes on that paper. At the end of the session, I will shred my notes, as well as the notes you take today.

I want to remind you that this is not a legal proceeding. Should you desire, at a later time, to pursue this matter in a court or an administrative system, this session will not delay or interfere with your right to do so. I, however, will not willingly testify for or against either of you regarding the information unique to this session if you decide to pursue this matter formally. If a judge determines that disclosure of our private confidential discussions is necessary to prevent a manifest injustice, establish a violation of law, or prevent harm to the public health or safety, I may be required by a court to disclose our private discussions.

Both the mediation agreement and the resulting settlement agreement, if any, are not confidential. Certain Air Force officials, such as legal and personnel, will have to review and authorize the proposed settlement agreement before it becomes legally binding; so, the agreement itself cannot be kept completely confidential. If an agreement is reached, it will be written and signed by you, and each of you will be provided with a copy of the agreement, when it becomes a legally binding document after the necessary approvals are granted.

Do you understand the confidentiality requirements and will you follow these requirements?

Thank you for being here. Your presence today demonstrates your willingness to attempt cooperative problem-solving. *Would you like to suggest any ground rules for the session today?* All I ask is that you sincerely agree to attempt to resolve this dispute, agree to treat one another with mutual respect (by talking one at a time and avoiding the use of profanity), and agree to give consideration to all suggestions made in regard to developing a realistic solution to the problem.

Are there any questions at this point?

If not, let's begin with [NAME of the party who brought the matter forward].
I know very little about the dispute so please tell us what brings you to mediation.

* Use "certified" in AF disputes only when SAF/GCD awarded certification.

MEDIATOR'S OPENING STATEMENT CHECKLIST

- ___ INTRODUCE yourself and (if applicable) your co-mediator. Ensure NO CONFLICTS OF INTEREST.
- ___ LOGISTICS: electronic devices, restrooms, accommodations needed?
- ___ NAMES: How would everyone like to be addressed? Have parties and representatives met one another before?
- ___ SETTLEMENT AUTHORITY: Do you have the authority to settle/sign any agreement?
- ___ DEFINE MEDIATION: A process in which a neutral person assists others in resolving disputes.
- ___ VOLUNTARY: Are all of you here voluntarily?
- ___ ROLE of MEDIATOR: neutral, not a judge or advocate. Parties have a right to bring representation if needed.
- ___ ROLE OF PARTIES: Good faith, open mind, listen & use questions.
- ___ PROCESS: stages, CAUCUS
- ___ WON'T TESTIFY: destroying notes, won't willingly testify.
- ___ CONFIDENTIALITY: Mediator will keep session confidential unless required to share info with appropriate authorities. Exceptions include confession to the commission of a criminal offense, or to an act of fraud, waste, or abuse, or that you plan to commit a violent physical act, or if a judge determines that disclosure is necessary to prevent a manifest injustice, establish a violation of law, or prevent harm to the public health or safety.
- ___ SETTLEMENT AGREEMENT: legal document, binding, review necessary through chain of authorities.
- ___ GROUND RULES: Mutual respect, one person talks at a time.
- ___ QUESTIONS? If not, person who raised the issue goes first.