

## **The Mediator's Opening Statement**

Think of an effective mediator's opening as the opening act of a multi-act play. While it's meaning may not be immediately apparent, much less appreciated by the audience, it literally sets the stage for all that will follow. While each opening statement must be uniquely tailored to the needs of the audience, that's just the starting point for what underlies the script.

### **THE GOAL:**

First and foremost, the mediator's goal, beginning with an opening statement, is to create an environment of safety and health. She approaches this task by seeking to build connections with everyone in the room while paying special attention to those most vulnerable or ill at ease.

### **THE WHY:**

By her tone, word choice, and body language, the mediator demonstrates control of the process and models behavior for those who will follow. Even the substantive detail of her remarks are carefully chosen and prioritized to maximize the impact of the presentation. In the end, the mediator's opening is about creating a safe vessel for parties and their counsel to exchange positions, interests and emotions. Like the multi-act play, the most effective mediator's opening may not be fully appreciated until the parties look back on the entirety of the mediation experience, beginning with the mediator's opening.

### **THE CHECKLIST:**

During her opening, the mediator should:

- Introduce the participants;
- Commend them for their willingness to participate meaningfully;
- Explain the mediation process, including its goals;
- Define the role of the mediator;
- Explain the parties' roles including expectations of participation and decision making;
- Describe the agreed-upon mediation process including the flexible use of joint meetings and private face-to-face meetings;
- Discuss and obtain commitment to confidentiality;
- Establish any desired ground rules;
- Discuss time commitments and gain a willingness to engage as long as possible;
- Invite input from experts or consultants in a managed fashion;
- Discuss logistics such as food service, restrooms, WiFi and other amenities.

This list is not meant to be exhaustive, instead it is meant as a starting point to be tailored for the specific dispute.