

OPENING STATEMENT CHECKLIST

- Introduce self and welcome parties
- Establish names, mode of address and roles of all present
- Congratulate parties on choosing mediation
- Ensure that the mediation agreement has been executed
- Success rate of mediation generally
- Mediator's background and training/experience
- Explain mediator's role (not a judge but a facilitator to help the parties settle their dispute)
- Establish neutrality
- If necessary explain any prior contact with those present (including if you have met them at a preliminary meeting) and potential conflicts of interest and obtain permission to continue
- Explain parties' roles
- If necessary, explain the roles of lawyers and advisers
- Voluntary process and procedure to be followed if one party wishes to terminate
- Obtaining appropriate advice encouraged
- Explain what is likely to happen after conclusion of opening statement
 - Each party to make an opening presentation
 - Joint sessions so long as productive
 - What a caucus is and who is to call for one
 - Joint sessions and caucuses as necessary
 - Use of notes and white board
 - Settlement Agreement
- Confidentiality and the extent of that confidentiality
- Privilege ("Without Prejudice") negotiations
- Explanation of the special nature of the confidentiality of the caucus
- Ground Rules – positive commitment
 - One person to speak at a time and the other party to listen
 - Common courtesy – no personal oral attacks
- Authority to negotiate and settle
- Time
- Questions, now and later