

MEDIATING DISPUTES

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A mediator must be:

- Able to define and structure a mediation process relevant to the disputing parties' situation.
- Neutral regarding the interests of the parties; impartial towards the parties as people.
- Able to be responsible for assisting each party in an equitable and balanced manner.
- Acceptable to and professionally trusted by all parties.
- Able to foster collaboration among the parties in search of an agreement.
- Willing to facilitate the parties' own control of the agreement-building situation.
- Able to maintain strict confidentiality, unless specifically waived in writing by the parties.
- Willing to accommodate relevant assistance to the parties (e.g. lawyers, CPAs, counselors, etc.).

Some questions to consider asking when serving as a mediator:

- ✓ What is the disagreement, exactly? What are the various parts of it, if complex?
- ✓ What facts about the situation do you agree and not agree upon?
- ✓ What interests do each of you have that must be incorporated in an agreement?
- ✓ Why haven't you been able to come to an agreement so far? What have been the blockages?
- ✓ What possible arrangement of issues could be devised that would permit an agreement?
- ✓ What criteria do each of you believe should be used to achieve an agreement?
- ✓ What will happen if you do not reach an agreement? Will there be financial, legal, business, or professional consequences? What other consequences could apply?
- ✓ What words would need to be used in an agreement document for an acceptable agreement to be achieved?