

# MEDIATION SHEPHERDING



# PRELIMINARIES

## 1. Greet the parties. *(This is the one time during the whole mediation where you will be doing most of the talking. Let the parties know this.)*

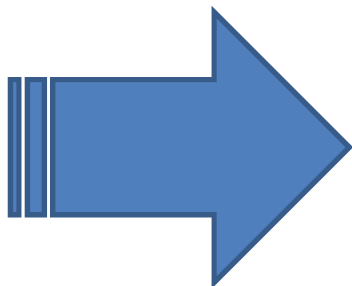
- Keep it short.
- Set the tone.
  - Non-adversarial
    - “We’re here to work together toward a resolution to this conflict that will be satisfying to everyone.”
  - Positive
    - “We serve a mighty God, and I KNOW that with His help there is no conflict that cannot be justly resolved; there is no relationship that cannot be fully healed.”
    - “I’m so encouraged that we’re all here together today. The fact that we’re here says a LOT about our commitment to resolving our conflict.”
    - “Thank you for making the effort to be here and for being willing to seek help in resolving this conflict.”
    - “As hard as conflict is, it also provides opportunities to glorify God, to serve others, and to grow to be like Christ.”

## 2. Define the role of the mediators. (and any advisors if present)

- Mediators are here to help you come to resolution. They are not arbitrators with the authority to decide *for* you. Therefore, whatever agreement is reached today will be what *you* decide it will be.
- Mediators are to be impartial, the way a good sports referee applies the rules fairly. If a player breaks the rules, it’s their job to call the foul.
- Mediators are not acting as legal advisors.

## 3. Explain the Process

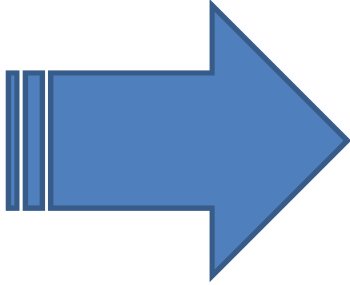
- The mediation process is fair. It establishes basic ground-rules which ensure that each person is treated with respect. Each person’s story will be heard. Everyone has opportunity to share their desires regarding the outcome of the situation. Participation is always voluntary, and any agreements are chosen freely by the people involved.



## MEDIATION SHEET # 1: OUR PROCESS

**4. Lead parties to AGREE on ground-rules.**

- Make sure to get verbal agreement from each party.
- It's not a bad idea to have them sign the paper.

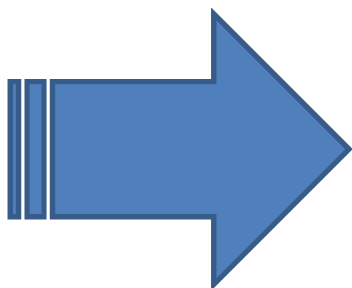


**MEDIATION SHEET # 2: Ground-Rules**

**5. Prayer and Devotion**

- Before moving to the heart of the mediation, you should pray.
- A brief devotional from Scripture is appropriate as well, especially if you have had the parties prepare by reading some specific Scriptures.

# LISTEN TO THE STORY



## MEDIATION SHEET # 3: Listen to the Story

### 1. Lead parties to share opening statements.

- ✚ It is VERY helpful to have the parties prepare opening statements in advance.
  - Make sure to give them the prompt in writing or have them write it down verbatim if giving it over the phone. Ask them not just to think about it, but to write out a short paragraph answer.

#### Prompt for Opening Statements

What is this conflict about and what needs to be done to resolve it?

- ✚ An opening statement is made by each party, giving opportunity to explain what they believe needs to be accomplished in order to resolve their differences. (It also allows the mediators to assess the attitudes and feelings of the parties.)
- ✚ Opening statements should be brief – direct the parties to share in two minutes or less. Use the following prompt.
- ✚ Note if the parties focused on their own responsibilities or on the other party's actions. Are they primarily concerned with substantive or personal issues?
- ✚ Summarize the issues or problems (restating in positive terms if necessary).
- ✚ Highlight any points of agreement.
- ✚ Explain that more issues may be identified as the meeting progresses.

### 2. Shepherding Parties Through Storytelling

- ✚ Storytelling is key to the success of the mediation. It is in the process of storytelling that people often have the opportunity to tell their stories for the first time. It is essential to follow the ground rules to make it “safe” for the parties to say all they need to say.
- ✚ For long and involved stories, allow the storytelling to occur in phases, alternating between the parties to give them both the feeling that they have been able to describe certain events.
- ✚ Someone has to go first. Mediators need to lead confidently here. You may flip a coin. Or the mediators may simply decide. Be aware of issues of imbalance due to power, personality, age, gender, and so forth. Generally, allow the primary “complainant” (initiator) to go first.

### 3. Mediator's Role During Storytelling

➤ Take notes.

- Record the story as you hear it (names are blocked out in this example).
- Use marks to highlight important things.

→ initial excitement phil. of ministry · missional community  
The Tangible Kingdom

Doctrinal disagreements → worked through → N: statement of faith  
Normal church plant stuff taking a long time = expectations  
Money + how it was used - no spending plan - friction - dealt with correctly  
[redacted] challenged leadership - perceives offense - drifting apart  
Perceived that [redacted] gave attention to others but ignored his family  
[redacted] thinks [redacted] maybe hasn't appreciated his input - admits being too vocal

\* Feeling of being second rate - admits bitterness - extended family ignored  
\* [redacted] felt left out - not invited to do things -

➤ Be a good listener. Active. Reflective.

➤ Draw out & clarify facts, feelings, desires, interests & motives.

➤ Don't dominate!

➤ Attend to both parties.

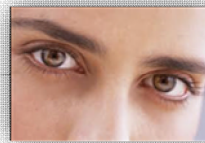
- The listening party will be communicating nonverbally.
- You may need to address the listening party. "I see you don't agree with what \_\_\_\_\_ has just said. We'll listen to your side too." "I can see this is hard for you to hear. Would you like to take a break for a few minutes?"

➤ Get parties to be specific. "You said that \_\_\_\_\_ is doing things to hurt you. Can you explain what, specifically, she has done?"

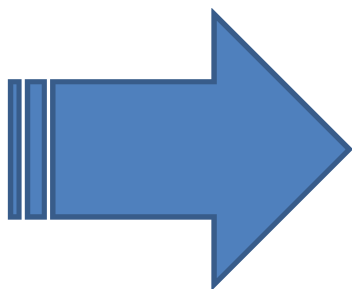
➤ You may need to help a party get back on track with storytelling.

- A party may digress to irrelevant matters.
- A party may try to start discussing solutions.
- A party may start trying to convince the other party of his or her positions, say, for example, giving a detailed defense of a doctrinal position.

# CLARIFY THE CONFLICT

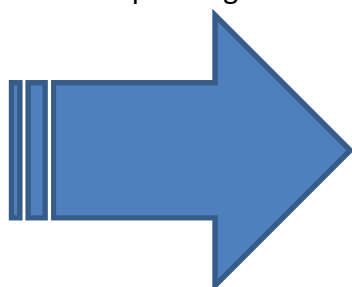


1. **Transition the parties to conflict clarification.**
2. Teach people the four **causes of conflict** and then have them take turns saying how they think each has contributed.



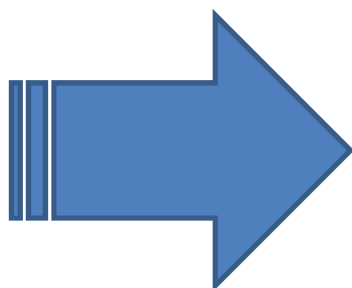
## **MEDIATION SHEET # 4: Causes of Conflict**

3. Teach the **Slippery Slope** and ask each party to self-identify how they have been responding to the conflict up to this point.



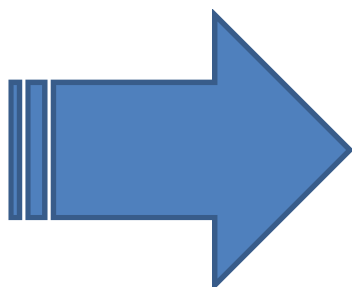
## **MEDIATION SHEET # 5: Responses to Conflict**

4. Teach parties to understand **issues, positions, and interests**.



## **MEDIATION SHEET # 6: Issues, Positions & Interests**

5. Create an **issues list**.



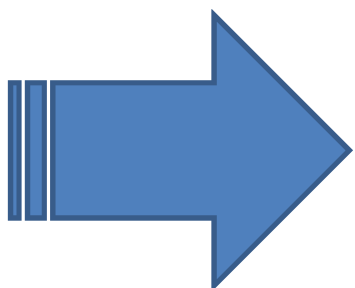
## **MEDIATION SHEET # 7: Issues List**

6. Allow the parties to state their INITIAL positions about the issues. “What has been your position about this issue up to now?”
7. Work with the parties to prioritize the list of issues.
  - a. “What, to you, is the most critical issue on this list?”
  - b. “What issue on this list is the key that would unlock the door to resolving the others?”
  - c. “What issue do you think needs to be addressed first and why?”
  - d. Remember that personal issues usually need to be resolved before there will be much progress on the substantive issues. People don’t want to negotiate reasonably when they are still hurt or angry!
8. Transition to Understanding the Heart via exploring interests.

# UNDERSTAND THE HEART



1. Openly and intentionally lead the parties to identify interests.
  - Have each party state what he/she sees as his/her own interests.
  - Invite the parties and mediators to suggest other possible interests to each party.



## **MEDIATION SHEET # 8: Understanding the Heart**

2. You may need to simplify. If there are complex and numerous issues, you will want to simplify by focusing on one issue at a time and identifying interests surrounding that one issue. You may want to pick a simple issue first.
3. You may need to address Biblical worldview as you evaluate interests. What do people really believe is most important? What values are they holding dear? Are these what God would value?
4. Having identified the issues of the heart which are driving the conflict, it's time to transition to Planning Biblical Action.



# PLAN BIBLICAL ACTION

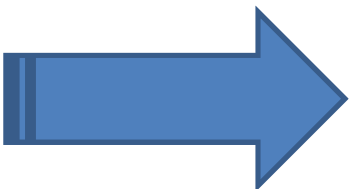


1. Pick an issue, using your prioritization, and begin exploring solutions. Some issues may be grouped together (like multiple instances of a similar hurt).
2. Use your role as mediator to help the parties own the process as much as possible. You can suggest possible solutions, but remember you are not an arbitrator.
3. Use “caucuses” wisely.
  - Help one party prepare to confess and seek forgiveness while helping the other party think Biblically through forgiveness.
  - Explore why one party is stubbornly holding onto an unreasonable position.
  - Feel out a party using an “if . . . then” question. If \_\_\_\_\_ were to do \_\_\_\_\_, then how would you respond?
4. Work for just and mutually agreeable solutions.



## **MEDIATION SHEET # 9: Plan Biblical Action**

5. Sin issues should never be negotiated. Instead, bring God’s law and grace to bear on the sinful attitudes and actions that lie at the heart of destructive conflict. Lead parties to confess and forgive right now, if possible.
6. When an individual has been badly hurt, there may be nothing that can be done that will help heal the pain quickly or restore the injured party to where they were before the offense occurred.
7. When an offender repents and confesses, there should always be a willingness to accept the consequences for sinful actions that have contributed to the conflict.



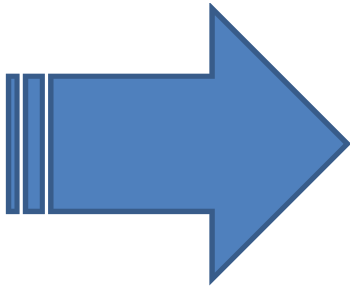
## **MEDIATION SHEET # 10: Brainstorm Guide**

8. Once the list of possible solutions has been graded, mediators can encourage reasonable evaluations of the ideas, beginning first with the ideas thought to be “outstanding.” It may be necessary to get objective data from Scripture or verifiable and measurable facts or the opinions of trusted advisors, neutral experts, regulations, statutes, the “going rate,” the industry standard, or some form of precedent.
  - Encourage parties to be specific (time, place, action, people involved, etc.)
  - Use honest, clarifying, questions
  - Look for admissions, hidden offers, or conditional offers
9. Transition to Following Christ in Trust and Obedience

# FOLLOW JESUS IN TRUST AND OBEDIENCE

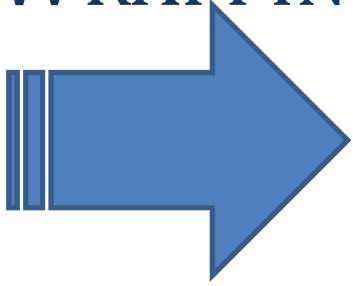


1. Discern what your parties need at this point. Maybe they need to seize the opportunity to believe Jesus more deeply – that He truly is who He says He is – that they can trust Him in THIS situation. Perhaps you need to help them learn to depend on Jesus. Or maybe they need to think through, practically, what it means to make every effort to be at peace or to overcome evil with good.



**MEDIATION SHEET # 11: Following Jesus in Trust &  
Obedience**

# WRAPPING UP



## MEDIATION SHEET # 12: Agreement

1. If you HAVE reached agreement, at least on some issues, write a statement of the agreement, detailing both the personal and substantive issues resolved or needing to be resolved. In so doing, the risk of miscommunication is minimized.
2. Write up together the way the conflict resolution has progressed. Record any and all resolutions and agreements. **RESTORE**
3. Such a document may take time to word carefully. It may be that an outline of the agreement will be discussed at the mediation, then the mediators will actually draft the document and give it to both parties for their final approval.
4. You may make an “Issues to Resolve Later” list alongside an “Agreements” list. If you can’t resolve one issue, see if there is an issue you *can* resolve. Sometimes one is the key that unlocks the door to the others.
5. Unresolved issues are often dealt with at a later mediation.
  - The parties may need time to collect facts needed to truly evaluate certain options.
  - Other people may need to become part of the solutions.
  - Maybe a party needs time for additional conflict coaching to prepare to confess or forgive.
6. If you cannot reach an agreement that resolves a particular issue, seek at least to agree upon a process to continue progress toward resolution. Parties may agree to additional conflict coaching, to doing some biblical or practical homework, and to continuing the mediation at a later date.
7. You may need to address the issue of confidentiality, especially if the mediation will need to be continued at a later date. It’s helpful to agree that “we will not discuss this mediation with others unless they have a legitimate need to know (i.e. church leaders, spouse) or all parties consent.” Help people think through what this means when a person asks about the conflict. You may help the parties agree on a simple set of talking points like, “We’re going through a mediation process right now, and I’ve agreed not to discuss any details until we’ve come to a resolution.”

## How to Reduce Tension and Alleviate Intense Emotions

- Address the emotions forthrightly, but with gentleness, and help the parties recognize them and take appropriate actions. i.e. “I see that you’re feeling angry.” “I can tell these are painful memories for you.”
- Call for a break.
- Remind the parties of their agreement not to interrupt each other, and encourage them to take notes.
- Ask the parties to address you, the conciliator, rather than each other.
- Give a “mini lecture” about an important communication skill.
  - One party may be using lots of generalities like “always”, “never”, etc. You say, “John, can I stop you for just a moment? I’m hearing some generalizations come out of your mouth here. ‘Sam ALWAYS shows up late.’ Could I suggest that you reword those as feeling statements? ‘It feels like Sam always shows up late.’ Or perhaps to be more truthful, you could use a word like ‘often.’
  - One party may be using cutting or derogatory statements. You may need to confront this sinful behavior which is doing more harm to the relationship.
- Read a pertinent passage of Scripture and ask the parties to reflect on how that passage relates to them personally.
- Call for a caucus. You may need to address communication skills or sins privately with a party.

## Using Caucuses Effectively

- **What is a caucus?** It is a time during the mediation where the mediator(s) meet privately with one party (may possibly be a party and his/her advisor meeting without mediators). You may prefer to call them time-outs, huddles, or private discussions (just choose a term and stick with it).
- **Why are caucuses helpful?** They are opportunities to conflict coach during the mediation. They are your best opportunity to address idols of the heart (see handout). They may be used to diffuse tension or work with a stubborn party. They may be needed for mediators to get “unstuck”. Use caucuses to teach, evangelize, clarify information, offer encouragement, confront inappropriate behavior, explore solutions or concerns that a party may not be ready to discuss in front of the other party, help a party plan a confession or prepare for a confrontation.
- **When should I use caucuses?** Use them sparingly. Use them when there are major heart issues to address. Use them when you seem to be at a sticking spot. Use them when a party could use some help in applying Peacemaking principles.
- **How do I call a caucus?** Casually, so as not to imply that some major problem just developed. Remind parties of the limits of confidentiality – the general substance of what is shared in a caucus, but not every detail, may eventually be discussed in the mediation. Direct the parties where to go and what to do (it’s often good to direct the party who will be alone to read and meditate on a passage of Scripture or spend some time in prayer or to use the bathroom and have a cup of coffee).
- **What are some important caucus tips?** Keep them as short as possible. Don’t leave one party alone for more than about 15 minutes without checking in. As mediators, do not “split up” with the parties unless there is strong warrant to do so. Keep the focus on the party who is present, not the one who is absent. Pray with the party.
- **How do I conduct a caucus?** A good start to any caucus is to ask, “How do you think our time is going so far?” The party’s first response will give you insight into that party’s positions and interests. Work with the party based on your reasons for calling the caucus.

# SAMPLE ONE: MEMORANDUM OF AGREEMENT

\_\_\_\_\_ Mediation \_\_\_\_\_, 20\_\_

We, the undersigned parties, have used mediation to resolve a dispute. On \_\_\_\_\_ [date], we reached the following Settlement Agreement, which is a complete and final settlement of this dispute. The following details our agreements:

- 1.
- 2.
- 3.

We acknowledge that the only role the mediators have played in the preparation of this Agreement has been to transcribe our own agreement into writing. We agree that everything said and written during the mediation process will remain confidential, unless stated otherwise in this Agreement or in our original Mediation Agreement. We further agree as follows:

1. Any dispute arising from the implementation of this Agreement shall be settled by mediation and, if necessary, legally binding arbitration, in accordance with *The Rules of Procedure for Christian Conciliation* of the Institute for Christian Conciliation, a division of Peacemaker Ministries; judgment upon an arbitration may be entered in any court otherwise having jurisdiction. \_\_\_\_ Yes \_\_\_\_ No
2. We intend that this Agreement will be legally enforceable and admissible as evidence in any judicial or administrative proceeding that is directly related to this dispute. \_\_\_\_ Yes \_\_\_\_ No

If any documents are needed to close or dismiss a pending legal action related to this dispute, they will be drafted and filed by \_\_\_\_\_ [name of attorney], attorney for \_\_\_\_\_ [name of party whose attorney will draft and file the documents]. Before signing this agreement we were advised to have it reviewed by our own independent legal counsel.

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

# SAMPLE TWO: MEMORANDUM OF AGREEMENT

The following were in attendance by agreement of the parties:

Parties

Mediators

In an effort to reconcile relational hurts and disappointments experienced during their conflict and to resolve related material issues, with the goal of restoring their relationship as brother and sister in Christ, \_\_\_\_\_ met for \_\_\_\_\_ days (hours) to work through offenses that they have experienced the past years while also learning better communication and conflict resolution skills. They honored one another by openly sharing their stories, hearing one another's hearts, and taking responsibility for their sins and failures. As beloved children of the living God, \_\_\_\_\_ felt the freedom to confess their sins and to offer each other forgiveness.

1. The following relational and/or substantive agreements were reached:

[List detailed acknowledgments and confessions of the parties.]

1.

2.

3.

2. We agree that the following issues identified during the mediation process might indicate significant heart issues ("idols") that may contribute to our relational conflicts. We agree to discuss, evaluate, and address these issues, possibly with the assistance of a counselor or conciliator:

A.

B.

3. We agree that when future conflicts arise, or when we become aware of hurts resulting from past offenses not dealt with during the mediation process, we agree to: a) overlook and forgive the other person; or b) follow a Matthew 18 process. We commit to strive to: bring glory to God by trusting, obeying, and imitating Him; get the log out of our own eye before confronting the other with their "speck" ; gently restore the other as we help them to see their part in our hurt; and make every effort to reconcile as quickly as possible through repentance, confession, and forgiveness. If we are unable to deal with our offenses privately, we commit to seek the help of a Christian conciliator, counselor, or another agreed-upon third party, in the event we are unable to deal with our conflicts productively.

4. The following public use statement was agreed upon:

5. The following Scripture passages were studied in the course of this mediation:

6. We agree to review this Memorandum of Agreement, look up and read all the above Scriptures, and pray for God's blessings on each other and our family members once a month for the following three months. This commitment will be calendared so that it is not forgotten.

7. We agree that this Memorandum of Agreement shall be treated as settlement negotiations and shall be strictly confidential and inadmissible for any purpose in a court of law, in accordance with Rule 16 of the *Guidelines for Christian Conciliation*. In addition, we agree that the intended purposes of this Memorandum of Agreement are to facilitate personal reflection, prayer, and accountability as we voluntarily commit to comply with the agreements as specified in this document.

8. We acknowledge that the primary role that the mediators have played in the preparation of this Memorandum of Agreement has been to transcribe our own agreement into writing.

9. We agree that any dispute with any conciliator, or any Participant, arising from or related to this Memorandum of Agreement shall be settled by mediation and, if necessary, legally binding arbitration in accordance with the *Rules of Procedure for Christian Conciliation* promulgated by Peacemaker Ministries. Judgment upon an arbitration decision may be entered in any court of competent jurisdiction. The undersigned understand that these methods shall be the sole remedy for any controversy or claim arising out of this Memorandum of Agreement and expressly waive their right to file a lawsuit in any civil court against any conciliator, or one another for such disputes, except as necessary to enforce an arbitration decision.

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_