

PRACTICE HINTS: CONSULTATION SESSION

PURPOSE

The Consultation has two fundamental purposes:

- For the parties to determine if mediation makes sense for them; and
- To determine if they are comfortable with the mediator.

Reassure the parties that participating in the consultation session does not mean that one or both have decided to divorce or to mediate, only that they are willing to hear about the mediation process.

TASKS

There are four primary tasks in this initial meeting with the client:

- To give the parties sufficient information about the mediation process so that they can make an informed decision to mediate (e.g., rules of mediation, how mediation fits into the formal legal process and the role of attorneys, the estimated time and cost of mediation).
- To sufficiently engage the parties on a personal level in order to establish confidence in the mediator (and subsequently in the process).
- To begin obtaining the parties' commitment to the mediation process.
- To obtain an initial assessment of the parties: e.g., the dynamics and timing of the decision to divorce (who is leaving whom, level of acceptance), parties' psychological states (self-esteem, ability to negotiate), complexity of issues, stresses.

SPECIAL ISSUES

- Before you can begin the substance of the session, you may need to negotiate with one or both of the parties being present. Often, and especially in mandated mediation programs, one or both of the parties feel forced into mediation. That sentiment must be addressed directly so that their participation, even in the consultation session, is shifted from feeling involuntary to voluntary.
- At the end of the session, if one person is anxious and the other is still considering whether to mediate, help the parties to negotiate a time frame within which to decide so a clear decision is made without either feeling pushed.

WRITTEN INFORMATION AND MATERIAL TO BE GIVEN TO CLIENTS (FORMS)

- Client reading list
- Legal process of divorce
- Rules of Mediation
- Agreement to mediate (given at consultation to be reviewed only – not signed)

GRAPHICS

The use of graphics is especially effective in the initial consultation session and throughout the mediation process:

- The parties identify with a picture of their family
- The flipchart focuses the parties' attention on the common issues.
- An agenda keeps the mediator organized and on track and gives the clients a sense of organization.
- Graphics allow for visual as well as audial information to be transmitted.
- There is too much information to take in by didactic modes of communication alone.
- Graphics allow "anchors" to be set.