

## **Real Practice Systems Project Menu of Checklists for Attorneys in Mediation**

### **General Information to Provide in Websites and/or Other Materials**

#### **Compliance with Ethical Requirements**

##### **Case Evaluation and Counseling of Client Before Mediation Session**

- Ask Client About History of Dispute
- Obtain Additional Information Needed to Evaluate Case
- Learn About Client's Disputing Experiences and Perspectives
- Identify *Individual* Client's Tangible and Intangible Interests
- Identify *Organizational* Client's Tangible and Intangible Interests
- Ask About Client's Interest in Options in Addition to Lump-Sum Payments
- Ask Client to Value Intangible Interests
- Identify Client's Priorities
- Conduct Any Needed Legal Research
- Evaluate Possible Outcomes If No Settlement (BATNA Value)
- Discuss Options for Dispute Resolution Process
- Explain Key Aspects of Mediation Process
- Analyze Applicable Rules or Contractual Dispute Resolution Provision

#### **Participation in Selection of Mediator**

##### **Preparation Before Mediation Session**

- Cooperate with Mediator's Intake Procedures
- Check for Conflicts of Interest
- Discuss Dispute and Participants with Mediator
- Discuss Parties' Intangible Interests with Mediator
- Arrange to Provide and Receive Memo and Documents
- Cooperate with Mediator to Arrange Exchange of Information with Counterparts
- Cooperate with Mediator to Schedule Mediation Session
- Cooperate with Mediator to Make Logistical Arrangements
- Review and Execute Engagement Letter / Agreement to Mediate
- Prepare Materials Such as Powerpoint or Video

#### **Planning About Possible Mediation Strategies**

##### **Tasks During Mediation Session**

- Cooperate at Outset of Session
- Implement Strategy to Advance Client's Interests
- Help Resolve Disagreements
- Recognize and Address Emotional Challenges of Any Participants
- Pay Attention for Client's Possible Decision Fatigue
- End Mediation with Agreement
- End Mediation without Agreement

**Reflection and Improvement of Techniques**

- Conduct Overall Self-Assessment after Mediation Session or Case
- Conduct Detailed Self-Assessment after Mediation Session or Case
- Interview or Survey Client
- Organize Educational Practice Group
- Participate in Educational Practice Group

## **Real Practice Systems Project Menu of Checklists for Mediators**

### **General Information to Provide in Websites and/or Other Materials**

- Information About Mediator's Background and Practice
- Information About Initiating Mediation

### **Compliance with Ethical Requirements**

#### **Tasks Before Mediation Sessions**

- Follow General Procedures
- Conduct Intake Procedures
- Check for Conflicts of Interest
- Explain Key Aspects of Mediation Process
- Discuss Dispute and Participants
- Discuss Parties' Intangible Interests
- Arrange to Receive Memo and Documents
- Arrange Exchange of Information Between Counterparts
- Schedule Mediation Session
- Make Logistical Arrangements for Mediation Sessions
- Draft Engagement Letter / Agreement to Mediate

#### **Tasks During Mediation Sessions**

- Initiate Session
- Review Process Guidelines
- Build Participants' Trust with Mediator
- Ask About History of Dispute
- Learn About Parties' Disputing Experiences and Perspectives
- Identify *Individual Parties'* Tangible and Intangible Interests
- Identify *Organizational Parties'* Tangible and Intangible Interests
- Ask About Options in Addition to Lump-Sum Payments
- Ask Parties to Value Their Intangible Interests
- Identify Parties' Priorities
- Help Parties Evaluate Possible Outcomes If They Don't Settle
- Coach Parties About Possible Mediation Strategies and Positions
- Identify and Address Any Emotional Challenges
- Pay Attention for Possible Decision Fatigue
- Help Parties Resolve Disagreements
- End Mediation with Agreement
- End Mediation without Agreement

#### **Reflection and Improvement of Techniques**

- Conduct Overall Self-Assessment after Mediation Session or Case
- Conduct Detailed Self-Assessment after Mediation Session or Case
- Interview or Survey Participants
- Organize Reflective Practice Group
- Participate in Reflective Practice Group