

Preamble:

Twenty-one suggested groundrules (not exhaustive) to be reviewed, at the beginning of the mediation session, which the parties involved commit to. Please note that these groundrules are:

- i. In no fixed order;
- ii. Changeable to be adapted to mediator's style and disputants' needs as there are difference schools of thought as to various aspects of this list;
- iii. Not "carved in stone", although some fundamental principals are universal such as the mediator not being a decision maker etc.

The Groundrules

1. Thank the parties for giving the mediation process a chance.
2. Remind them that mediation is there to assist them in negotiating their own solutions or resolving any differences or disagreements but NOT to make a decision for them. The mediator is not an arbitrator or judge so it is up to the parties to find answers and agree on next stages with the mediators help.
3. The mediator does not take anyone's side but is on the side of everyone coming to some consensus acceptable to the parties who remain in control of their own outcomes.
4. The mediator is involved in the process not the content.
5. No one is to interrupt the other(s). When someone is talking the other(s) can make notes to help them remember the points they want to respond to when it is their turn.
6. Equal time will be given to the complainant/respondent over the course of the mediation.
7. The parties need to trust the process and the mediation, and if there are any doubts they need to be expressed and, if necessary, the parties can choose another neutral third party with the help of the present mediator or they can explore another process option more

suitable to their needs.

8. The process is voluntary; each person is allowed to participate at their own pace knowing that the mediation is in a safe and neutral place.
9. Feelings and venting is natural and could occur, but people should try to be dignified in their language and conduct. ADR (Alternative Dispute Resolution) also stands for A Dignified Resolution.
10. If any of the parties want to meet separately and alone with the mediator, it is called a caucus (or if lawyers are involved, the same applies to them and their clients and/or the mediator) and they are acceptable. So if a caucus is asked for, which can be done at any time by any of the disputants, no one will wonder what is going on or be suspicious of anything.
11. During caucus the parties can speak privately with the mediator and, unless told to the contrary, what is said in caucus can be shared with the other parties involved in the mediation; however, if anyone wants anything to be kept confidential and not to be shared with the others the mediator will respect that and the other parties will also know that this aspect of the confidentiality is part of the process for both the others and themselves.
12. Any notes made by the mediator are only to help remember any points to be discussed or to aid the parties in drafting any final written agreement or report to which everyone eventually consents.
13. If a legal document is to be signed, the parties are advised to obtain independent legal advice before signing.
14. Nothing said in the mediation can be used against the other in any other forum, whether adjudication (arbitration, court) or otherwise. The process is safe also because it is without prejudice – whatever is said in the room, stays in the room. If applicable a terms of reference document has already been signed stating, among other things, that the mediation process is without prejudice, that neither the mediator nor notes taken can be subpoenaed, with damages if that confidentiality is breached.
15. Where appropriate, and the parties wish, the mediator can help them along not only in managing the conversation but also brainstorming options and generating solutions.
16. Principled not positional negotiations will be encouraged (more elaboration, if required, based on the parties' knowledge on the negotiation process apart from intuitive understanding).
17. Housekeeping (washrooms, beverages, excusing oneself from the room, etc.)
18. This is meant to be a collaborative not adversarial problem solving exercise for mutual benefit.

19. If anyone feels things are not working out, or it is not worth the time to carry on, or gets frustrated by something that happens or is said, before storming out or stopping the process, please caucus with the mediator first.
20. Any questions or comments on the process?
21. Who goes first is decided by the parties themselves or if they can't (unusual) by another process (e.g., flipping a coin).

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