

ONLINE MEDIATION TIPS SHEET

Perhaps the most important aspect of online mediation to keep in mind as you prepare to take part in it is that online mediation is not the same as an in-person process. Especially with processes that replicate in-person exchanges, such as video conference, it can be tempting to prepare to participate as you would an in-person gathering; yet, it can be essential to keep in mind that exchanges will take place differently online. The skills and techniques that your mediator utilizes should vary as well – the tools utilized by a good mediator differ online as compared to in-person.

DO's

1. Test Your Technology

Become more familiar with the equipment and platform you will be utilizing for online mediation.

This includes video and audio testing in advance.

A good mediator will offer a test session in advance of the mediation, to allow you a chance to get a feel for how online mediation will work. If you are participating with video or audio, it can be helpful to consider your background, environment and surrounding distractions to allow yourself to participate comfortably.

2. Share Your Distraction/Disruption Concerns in Advance

If you are worried that a pet or roommate may interrupt the proceeding, distracting you or otherwise disrupting the process, it can be worthwhile to inform others participating in your mediation in advance.

While you may be hesitant to tell “the other side”, the mediation opportunity typically presents best when surprises that could disrupt the process are disclosed in advance.

Some online mediation tips and best practices call for no distractions. This is not realistic for many people.

It can help to address any concerns in advance – at least with your mediator.

3. Check In with Yourself

Best practices for working from home call for regular breaks and maintaining set hours to avoid “work creep” (feeling as though you are always at the office). Similar practices apply to online mediation.

While your mediator should ensure that your mediation’s duration is set in advance, it can be the case that participating in online mediation can be just as, if not more, draining than in-person.

Check in with yourself and call for breaks as you need to feel and perform your best. This will help you make the most out of your mediation opportunity.

PREPARE 2 MEDIATE

ONLINE MEDIATION TIPS SHEET

DON'T's

1. Do Not Keep Your Comfort Preferences to Yourself

Not everyone has access to large spaces and a perfect Internet connection to participate in an online mediation.

Not everyone is comfortable presenting on camera. Many benefit from the presence of a support person or pet.

If there are aspects of your participation in the mediation process that would make you more at ease, do not keep them to yourself. Speak up in advance, let your mediator know and find out how you can be accommodated. Mediation often has the best chance of success when participants in the process are comfortable.

2. Do Not Expect Perfection

If you were mediating in-person, you may find yourself stuck in traffic, having trouble finding a parking spot or otherwise experiencing difficulty navigating your way to your meeting room. While online mediation removes the potential for such mishaps, it remains that an array of things could go wrong.

From unforeseen power outages to fire alarms to equipment malfunction, the fact that multiple equipment is being utilized from multiple locations only increases the likelihood for a problem to be encountered. Try not to let any technical difficulty get in your way – it is not the end of the world.

Do your part to proactively prevent issues through testing and punctuality, yet be prepared for the potential of a problem. A good mediator will set out a back-up plan in advance to allow for communications in the event of a problem.

3. Do Not Assume Online is Informal

In April 2020, a judge in Florida received some media attention for criticizing the way that lawyers appeared before the court. With the COVID-19 pandemic taking proceedings online, the judge observed legal representatives presenting themselves poolside, from the comfort of their own beds and in attire that was not typically appropriate for a court room.

While these extremes made for a good laugh, they also highlighted some of the problems that can emerge when appearances during online meetings are taken for granted.

Yes, mediation is often less formal than court or arbitration proceedings. Yet, how one presents themselves can often impact if they are perceived to have prepared to mediate and the extent to which they are taking the proceeding seriously. Present yourself in the way that you feel is most appropriate, to indicate your dedication to the process and good faith participation. Online mediation is certainly an occasion to get out of your pajamas, even if you are not leaving your home!

PREPARE 2 MEDIATE