

Case Number: \_\_\_\_\_

## MEDIATION QUESTIONNAIRE

*Please complete this Questionnaire before your mediation session.*

**This form and any other communications with the mediator are confidential and privileged to the extent provided by sections 44.401- 44.406, Florida Statutes.**

Mediation is a process in which two people work together with a neutral third person (the mediator) to discuss the issues in their case to try to work them out. Mediation often occurs with both people in the same room.

*The following questions relate to you and the other person in this case.*

1. Are you afraid of the other person?  Yes  No
  
2. Is contact between you and the other person limited by a court order (such as an injunction, a no contact order in a criminal case, etc.)?  Yes  No
  
3. Do you believe you can express your needs and concerns in the presence of the other person and the mediator?  Yes  No
  
4. If you have children, do you believe you can express the needs and concerns of your children in the presence of the other person and the mediator?  Yes  No  
 No children
  
5. If you answered no to question 3 or question 4, would you be able to express your needs and concerns and those of your children with the mediator only?  Yes  No
  
6. Do you believe that during mediation you would be intimidated by the other person into accepting an unfair result?  Yes  No

OTHER COMMENTS:

**IF YOU HAVE ANY CONCERNS ABOUT YOUR PHYSICAL SAFETY DURING MEDIATION, PLEASE CALL THE MEDIATION OFFICE AT \_\_\_\_\_ TO DISCUSS WITH THE MEDIATOR PRIOR TO THE MEDIATION. According to Florida Statute 44.102(2)(c): “. . . Upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process.”**

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

## ISSUES TO CONSIDER FOR USE OF MEDIATION QUESTIONNAIRE

### Distribution

1. **In order to minimize the possibility of intimidation, parties should receive individual copies separately. The parties should be encouraged to complete and return the questionnaire to the mediator in advance of the mediation.**

If parties are represented, the notice and questionnaire should be sent to their attorneys for **the parties** to complete and sign.

The mediation program should send a copy of the mediation questionnaire to the petitioner and the respondent, with the notice of mediation. The program should provide information to describe the mediation process. Even if parties are still living together, the notice and questionnaire should be sent individually to each party. An envelope addressed to the program should be included with each Questionnaire.

2. If questionnaires are not returned in advance of the mediation, unless domestic violence concerns suggest otherwise, parties should be instructed to arrive at mediation a sufficient time prior to the scheduled mediation to complete questionnaires and address any noted concerns.

### Review

3. **Questionnaires should be reviewed prior to the scheduled mediation if possible in order to address safety concerns in advance.**

If someone other than the mediator conducts this review, the mediator should be notified in advance of the mediation regarding any concerns which were raised.

A specific individual should be designated, in advance, by the program to handle calls from parties who raise concerns.

4. If concerns have been raised or noted prior to the mediation (either via questionnaire or call from the participants), the mediator or program designee should consider the following options:

- Determine whether the party is represented by an attorney and if the attorney will be present. *Note*, even if represented at the mediation, the mediator must remain mindful of the mediator's ongoing responsibility to postpone or cancel a mediation "if, for any reason, a party is unable to freely exercise self-determination..." Rule 10.310, Florida Rules for Certified and Court-Appointed Mediators.
- Determine whether an advocate or support person will be present.

- Conduct mediation in such a manner that the parties do not come in contact with each other (i.e., entirely in caucus mode)
- Conduct mediation in secure facility and alert (court) security in advance
- Designate that the parties arrive and depart at different times (typically, ask victim to arrive last and depart first)
- Develop a signal for party to use to terminate mediation
- Cancel the mediation; If mediation cancelled, notify the court of the cancellation without breaching confidentiality

#### Day of Mediation

5. Upon the parties' arrival at mediation, the mediator or mediation staff should verify that the questionnaire has been completed and received. If already reviewed, the mediator or staff should inquire of each party separately to determine if there have been any changes to the responses, and parties should be given an opportunity to update the questionnaire. If the questionnaire has not been completed or received, the party should be given another copy and asked to complete it prior to beginning mediation. Parties should not be permitted to sit together when completing questionnaires in the mediation office.
6. Prior to calling the parties into mediation, the assigned mediator should review the questionnaires. Any answer which indicates the potential of fear or power and control issues, should alert the mediator to meet privately prior to beginning the mediation with each party. If concerns have not been addressed prior to the mediation or additional concerns are raised, the mediator should consider taking action consistent with point four above.
7. Information packets from the local domestic violence shelter should be available in the office.