

POINTS ON CLOSURE

Closure With Agreement

When a settlement is reached, keep the following in mind while you work through the agreement process:

- **Resolve Issues With Specific Solutions:** State clearly who will do what, when, where, how and for how long. Clarify ambiguous words such as reasonable, frequent, soon, and often.
- **Focus On The Future Relationship:** Think of ways to work together in the future more productively and without further conflict.
- **Test Whether The Agreement Is Workable:** Does the agreement propose realistic, workable solutions? Does the agreement address the heart of the problem? If the agreement is not realistic, alter it so that you and the Complainant are both comfortable with it.
- **Transition From Oral To Written Agreement:** Capture the essence of the agreement in a summary form in writing "on the spot" even if the document is only initialed, (or don't sign it at all pending the full agreement). This helps define what was agreed to and assures you've got it right; and creates momentum toward full settlement ("agreement in principle").

Closure Without Agreement

Obviously, not all mediations end in agreement. In declaring impasse and terminating the mediation, keep the following in mind:

- **Knowing when to declare impasse is a judgment call for the mediator.** Don't be too quick to declare impasse. Only when it appears likely that no movement is possible should impasse be declared. Usually what the parties say and do in caucus is more relevant to whether any agreement is possible than what they say in open sessions.
- **Emphasize the positive aspects of the mediation.** Thank the parties for their participation and their honest and sincere efforts to resolve their differences. You want them to leave with a positive impression of the process even if it did not work for them this time.
- **Even an unsuccessful mediation can set the stage for future settlement.** Above all, mediation gets the parties talking to one another, which often makes it easier for them to continue bilateral negotiations, or to enter into further mediation or other ADR efforts later on in the dispute. Make sure the parties know they can contact you and/or the ADR Champion to try mediation again.