

Unique Issues in Elder Mediation

Top 10 Practice Tips About Mediation of Disputes Involving Older People Elder Mediation Training Webinar Series

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1. Loss of control may cause extreme anxiety for an older person. Identify areas where you can increase control for the older person, and you may be able to soothe anxiety and improve problem solving.
Credit: Taylor, Dan, The Parent Care Conversation: 6 Strategies for Dealing with the Emotional and Financial Challenges of Aging Parents, Penguin Books, New York, NY, 2006.
2. Recognize the importance of legacy for older people, and be sure that your proposed solutions to a dispute take legacy into account.
Credit: Solie, David, How to Say It to Seniors: Closing the Communication Gap with Our Elders, Prentice Hall Press, New York, NY, 2004.
3. When you are worried about a person's capacity to mediate, ask these questions: does the person understand (a) the mediation process, (b) who the parties are, (c) the role of the mediator, (d) the parties' relationship to the mediator, and (e) the issues at hand. Make sure the answer to each question is "yes" before you proceed.
Credit: American Bar Association Committee on Law and Aging, and American Psychological Association, Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers, 2005. www.apa.org/pi/aging/resources/guides/diminished-capacity.pdf.
4. Choose a time to mediate that works best for the older person involved in the dispute. Inadequate sleep or nutrition and effects of medication can hinder progress. If the older person is having a "bad day," be flexible enough to reschedule.
5. The distinction between diminished capacity and incapacity can be blurry. Proving incapacity is a complicated judicial process.
6. A Power of Attorney document appoints an agent to act on behalf of the older person to complete the person's actions. When an agent

substitutes his judgment for the older person, the agent is skating on thin ice.

7. Explore cultural differences that stem from a person growing up during a different time.
8. Acknowledge the structural conflict within the residential care setting.
9. Don't assume that what you say is being understood. Check in with the listener!
10. Mediation is a confidential process. Use it and trust it.