



Goals and Process for an Initial Individual Private Session (IPS)

GOALS

1. Prepare a party for mediation
2. Build rapport and trust
3. Learn the background and history, including:
 - a. The person
 - b. The child(ren)
 - c. Family history and dynamics
4. Assess (per Neb. Rev. Stat. § 43-3929) for the purpose of determining the process by screening for the presence of:
 - a. Child abuse or neglect
 - b. Unresolved parental conflict
 - c. Domestic intimate partner abuse
 - d. Other forms of intimidation or coercion
 - e. A person's inability to negotiate freely and make informed decisions
5. Determine the appropriate process moving forward, or if not appropriate for either process
 - a. Complete assessment
 - b. Document the determination (i.e., mediation, specialized ADR, not appropriate)

PROCESS

1. Administrative/Casework (e.g., Agreement to Mediate, fees, etc.)
 - a. When and how this is completed is mediator specific

Before IPS

1. Familiarize self with a general understanding of the purpose of the IPS, and routinely review the Nebraska Parenting Act
2. Schedule a date and place for the IPS
 - a. Date – Schedule the IPS with each party before the mediation/SADR is scheduled. Until the IPS is complete, the mediator has not yet determined the process or if the case is even appropriate to move forward. Schedule each party separately so that there is no chance of overlap between the two; best practice is to schedule the IPSs on different days.
 - b. Place – The IPS is to be held in private and confidential setting.

IPS

1. Provide introduction (**Goal 1**)
 - a. Qualifications and professional disclaimer (I am a ____ [e.g., attorney] but I will not be serving in that capacity today.)
 - b. Confidentiality
 - i. Exceptions (See §§ 43-2914, 25-2935 for complete listing of exceptions):
 1. The communication was made in furtherance of a crime or fraud (§ 25-2914.01 (4) (b))
 2. The communication was a threat or statement of a plan to inflict bodily injury or commit a crime of violence (§ 25-2935 (a) (3))

3. The communication was intentionally used to plan a crime, attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity (§ 25-3935 (a) (4))
 4. The communication is required to be reported under section 28-711 and is a new allegation of child abuse or neglect which was not previously known or reported (§ 25-2914 (4) (c))
 5. Communication sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective agency is a party (§ 25-2935 (a) (7))
- c. Explain the process, including role of the mediator
2. Use mediator skills to explore and learn more about their background and history: **(Goals 2 & 3)**
 - a. How long have you been married/in a relationship/divorced/separated?
 - b. Describe how communication is going between you and the other parent, and between each parent and the child(ren).
 - c. Is there or has there ever been a protection order, restraining order, or criminal no-contact order applied for or granted?
 - d. Why did the relationship end?
 - i. Do both parties accept that the marriage/relationship is over?
 - e. Current parenting schedule
 - i. How long has it been in place?
 - ii. Does it work well for:
 1. You?
 2. The child(ren)?
 - iii. What could be done differently?
 - iv. Is there a temporary order in place?
 - f. The children
 - i. How are they handling the situation?
 - ii. Describe relationship with each parent.
 - iii. Are there concerns for the children with how the other party parents?
 3. Assess per Goal 4 **(Goal 4)**
 - a. Use one of the following screening tools approved by the State Court Administrator:
 - i. Integrated Screening and Mediation Discussion Guide (Appropriate for all skill levels) (Attachment A)
 - ii. Original Screening Tool (2007) (Appropriate for all skill levels) (Attachment B)
 - iii. Screening Discussion Outline (for highly experienced mediators) (Attachment C)

After IPS

1. Determination **(Goal 5)**
 - a. Based on the IPS, determine the appropriate process that allows the parties to negotiate freely and make informed decisions, or if neither process is appropriate.
 - i. Complete ODR-approved Determination Form (Attachment D)
 1. The completed Determination Form is to be kept in the client's case file (physical or digital) and available for inspection upon request of the ODR.



Nebraska IPV Screening Guide (3-27-21)



Basic Screening Questions:

What to Listen For:

Behavioral Indicators:

How comfortable are you interacting with _____ now?

- Do you have any concerns, fears or anxieties that I should be aware of?
- What worries you most?
- How do you feel about meeting with the other parent either in the same room or separate rooms?

Personal Interactions

- Comfortable ↔ Uncomfortable
- Safe/Secure ↔ Fearful/Anxious
- Self-Ruled ↔ Controlled
- Connected ↔ Isolated
- Respected ↔ Disparaged
- Self-Reliant ↔ Dependent
- Supported ↔ Undermined

Personal Interactions

- Insults, put downs
- Public ridicule
- Disrespect, humiliation
- Mind games, distrust
- Yelling or screaming
- Aggression, contempt

When you look back over time, how were practical, everyday decisions made in your relationship?

- Were you comfortable with that?
- What happened when disagreements arose?

Everyday Decision-Making (food, shelter, finances, children)

- Equal ↔ Dominating
- Cooperative ↔ Coercive
- Responsible ↔ Irresponsible
- Fair ↔ Manipulative

Everyday Decision-Making

- Making you do things you don't want to do
- Intimidation
- Threats
- Undermining or disrespecting your choices
- Intentionally bad choices to punish you

Is there anything that gets in your way of doing things you want or need to do in your daily life, like:

- Managing your daily affairs
- Meeting your basic needs
- Meeting the needs of the children
- Fulfilling everyday responsibilities
- Making your own decisions
- Interacting with other people

Access to Resources

- Self-Sufficient ↔ Dependent

Control of Everyday Life

- Autonomous ↔ Controlled

Economic Abuse

- Deny money
- Refuse to pay bills
- Empty bank acct.
- Hide assets
- Undermine credit
- Run up debt
- Forge papers
- Refuse to pass title
- Destroy property
- Steal your property

Control of Everyday Life

- Follow or stalk
- Often check up on
- Check mail/email
- Check phone calls
- Time activities
- Use others to spy
- Social media posts
- Physically restrain
- Forbid you to leave
- Treat as a child
- Come w/out notice
- Unwanted contact

**Basic Screening Questions:**

Has there ever been any physical violence between you and _____?
If so, can you tell me about that?

- Is there, or has there been, a history of protection orders, no contact orders, or restraining orders?

What to Listen For:**Physical Violence**

| | | |
|------------|----|---------------|
| Very rare | ←→ | Every day |
| Very minor | ←→ | Very severe |
| No Harm | ←→ | Severe injury |

Behavioral Indicators:**Physical Abuse**

- | | |
|--|--|
| <input type="checkbox"/> Hold, pin, restrain | <input type="checkbox"/> Burn, poke |
| <input type="checkbox"/> Kneel or sit upon | <input type="checkbox"/> Shoot or stab |
| <input type="checkbox"/> Tie up, bind, gag | <input type="checkbox"/> Withhold food |
| <input type="checkbox"/> Push, shove, shake | <input type="checkbox"/> Withhold meds |
| <input type="checkbox"/> Grab, twist arm | <input type="checkbox"/> Disable medical equipment |
| <input type="checkbox"/> Scratch, pull hair | |
| <input type="checkbox"/> Bite, shave, cut | |
| <input type="checkbox"/> Spit or urinate on | |
| <input type="checkbox"/> Choke or strangle | |
| <input type="checkbox"/> Slap, hit, punch | |
| <input type="checkbox"/> Kick or stomp | |
| <input type="checkbox"/> Throw object at | |

Have you ever felt so ashamed, humiliated, embarrassed, or fearful by something you or _____ said or did to the other that you didn't want anyone else to know about it? If so, can you tell me about what that was like for you (without revealing specifics)?

Emotional Well-being

| | | |
|--------------|----|-----------------|
| Safe/secure | ←→ | Fearful/anxious |
| Self-respect | ←→ | Humiliation |
| Autonomous | ←→ | Controlled |

Emotional Abuse

- Excessive jealousy
- Possessiveness
- Infidelity
- Accusations of infidelity
- Excessive criticism
- Gaslighting
- Degradation
- Interference with:
 - work/school life
 - social life
 - sleep
 - healthcare
 - medication

**Basic Screening Questions:****What to Listen For:****Behavioral Indications:**

Have you or _____ ever forced the other to do sexual things the other didn't want to do or insisted on having sex when the other didn't want to? If so, can you tell me about that?

Sexual Autonomy

Voluntary ↔ Forced
Respectful ↔ Degrading

Sexual Abuse

- Force sex
- Undermine birth control
- Misuse pornography
- Force prostitution
- Terminate pregnancy
- Sexually humiliate

Have you or _____ ever been concerned that the other was going to physically or psychologically harm the other or the children or pets? If so, please explain.

Fear of Physical or Psychological Harm
(self, children, pets, others)

Not fearful ↔ Very fearful

Fear of Harm

- Threaten to:
 - Kill you or kids
 - Kill self or others
 - Harm you or kids
 - Harm others
 - Harm or kill pets
 - Take the kids
- Destroy things
- Threat w/ weapon
- Disable your car
- Drive recklessly
- Set a booby trap
- Break into home
- Set fire to home

How are parenting time arrangements currently being worked out?

- How did you arrive at that arrangement?
- Are you comfortable with that?
- Any concerns about children or fears for their safety?

Parental Decision-Making

Equal ↔ Dominating
Cooperative ↔ Coercive
Responsible ↔ Irresponsible
Child-focused ↔ Self-focused
Fair ↔ Manipulative

Parenting Decisions

- Physical or sexual abuse or neglect of child
- Emotional abuse of child
- Economic abuse of child
- Use of child as tool of abuse
- Denying impact of abuse on child
- Ignoring child's separate needs
- Undermining parent's relationship w/ child
- Undermining other's parental authority

EFFECTS OF IPV ON....

Autonomy



Freedom from undue pressure, duress, threats, manipulation, and/or intimidation

How comfortable are you saying what you think, raising difficult topics, disagreeing with the other person, and standing up for what matters to you?

Good faith/fair dealing



Adherence to ground rules, respect for others' needs and interests, full disclosure of relevant information, willingness and ability to explore options and share decision making, commitment to honor agreements

How confident are you that both of you will: (1) follow the rules; (2) share important information; (3) hear each other out; (4) cooperate; (5) stand by promises and agreements; and (6) not undermine the process?

Judgment



Parenting capacity and judgment, commitment to shared decision-making, willingness & ability to attend to children's needs

How well can you rely on the other person to make good decisions when it comes to the children, prioritize the children's needs, and share parental responsibility?

Information



Understanding of rights, issues, and options; access to technology and relevant information; knowledge of personal & community resources

How well do you understand this process, your legal rights and options, technology, and the things you need to know to fully and effectively participate?

Safety/Risk Assessment



- Stalking
- Sexual assault
- Abuse during pregnancy
- Threats to kill
- Strangulation
- Controlling behaviors
- Access to weapons
- Increased frequency/severity
- Child abuse
- Animal abuse
- Excessive jealousy/obsession
- Abuser's mental status
- Denial of responsibility for IPV

Is there anything about this process that makes you concerned for your own safety or for the safety of your children? If so, please say more.

PROCEDURAL RESPONSES

- Expert co-mediator
- Legal or advocacy support
- Emotional Support
- GAL/CASA
- Caucus/break-out rooms
- A/Synchronous Video
- Judicial findings or orders, including temporary orders
- Protection/Restraining/No-contact orders
- Trial period agreements
- SADR
- Suspend/delay mediation
- Do not attempt mediation

Mediation Discussion Guide

Nebraska Mediation Screening Tool

The Nebraska Parenting Act, Neb. Rev. Stat. §43-2939 (2007)

NOTE TO MEDIATOR:

Neb. Rev. Stat. §43-2939 (2007) states: “(1) A Parenting Act mediator, prior to meeting with the parties in an initial mediation session, shall provide an individual initial screening session with each party to assess the presence of child abuse or neglect, unresolved parental conflict, domestic intimate partner abuse, other forms of intimidation or coercion, or a party’s inability to negotiate freely and make informed decisions. If any of these conditions exist, the mediator shall not proceed with the mediation session but shall proceed with a specialized alternative dispute resolution process that addresses safety measures for the parties, if the mediator is on the approved specialist list of an approved mediation center or court conciliation program, or shall refer the parties to a mediator who is so qualified. . . . The mediator has the duty to determine whether to proceed in joint session, individual sessions, or caucus meetings with the parties in order to address safety and freedom to negotiate. In any mediation or specialized alternative dispute resolution, a mediator has the ongoing duty to assess appropriateness of the process and safety of the process upon the parties.”

This screening tool was developed under the provisions identified by Neb. Rev. Stat. §43-2927 (2007) and has been approved by the Nebraska State Court Administrator. The information contained herein is considered to meet minimum requirements of the Act; however, mediators must use their own judgment in terms of the screening process, assessment, and decision-making. The tool is based in part upon the “domestic abuse power wheel” and its domains of power and control, and is designed to address the statutorily defined risks of ability to negotiate, child abuse or neglect, unresolved parental conflict, and other forms of intimidation and coercion. While this tool addresses the statutory risk areas, mediators are encouraged to add more specific questions to explore a specific risk area should the situation warrant.

In addition to screening for safety issues and ability to negotiate freely, it is the mediator’s duty to determine whether to: (a) proceed with mediation; (b) proceed with specialized ADR; or (c) to terminate the mediation process in its entirety. A sample script to introduce the mediation screening is provided at the beginning of the tool. A sample mediation assessment is provided at the end of the tool. The screening is to be done for each and every Parenting Act client, face-to-face, in a private setting. The estimated amount of time for screening each person is a minimum of fifteen minutes, with likely average time of thirty to forty-five minutes.

Sample Mediator Script

It is important that I know as much about your relationship as possible, so I can assist you to develop a parenting plan that is safe and effective for you and your children. To do so, I need to ask you some routine questions that I ask all of my clients to determine all relevant facts. These questions are required by law. I apologize if any of them make you uncomfortable, but I would rather risk offending you than not help you stay safe. Remember that everything you tell me is confidential, except for unreported child abuse or neglect. Is this a safe place and a good time to talk with you? This interview is for me to determine which approach and what process is the safest and most helpful for you and the other parent to work out a Parenting Plan best for your children.

Mediator: If you have determined that this is a safe place and time to talk, and you have the mediation client with you alone in a private setting, then proceed with the following questions.

Mediation Screening Questions (the underlined spaces _____ indicate the other parent/party)

A. My initial question to you is: do you have any concerns, doubts, or fears about mediating or negotiating with the other parent? If so, please describe:

B. Do you have any concerns, doubts, or fears about being in the same room with the other parent? If so, please describe:

C. General Fear / Safety Issues: (if any answer is “Yes,” ask the party to describe further)

- What happens in your relationship when you disagree? Please describe: _____
- Do you feel that you or your children are in danger? Yes/No
- Do you have any fear/concerns about being able to talk about your children’s needs with _____ in the same room? Yes/No
- Do you feel safe being in the same room with _____? Yes/No
- Are you concerned about _____’s mental stability? Yes/No
- Do you have any concerns about drug or alcohol use by _____? Yes/No

D. Coercion and Threats: (if any answer is “Yes,” ask the party to describe further)

- Has _____ ever threatened you, your children, or family members? Yes/No
- Has _____ ever threatened to hurt him/herself? Yes/No
- Has _____ threatened you to not press charges or tell anyone about abuse that occurred? Yes/No

E. Isolation: (if any answer is “Yes,” ask the party to describe further)

- Has _____ or does _____ limit your contact with others (friends, family, co-workers)? Yes/No

F. Using the Children: (if any answer is “Yes,” ask the party to describe further)

- Tell me about the relationships you and _____ have with your children: _____
- Does _____:
 - undermine your authority with your children? Yes/No
 - engage in behavior that is abusive toward your children? Yes/No
 - neglect to take care of your children’s needs, such as needs for food, a healthy environment, medical care, etc. Yes/No
 - Has _____ ever taken the children without notice or permission? Yes/No
 - Has _____ ever threatened to take the children without permission? Yes/No

G. Legal Status (if any answer is “Yes,” ask the party to describe further)

- Are there other dissolution or modification proceedings active? Yes/No
- Is there a case active in juvenile court? Yes/No
- Is there an active restraining order, protection order, or other similar order? Yes/No
- Are there any other civil or criminal court actions impacting you, _____, your children, or _____’s children? Yes/No

H. Economic Abuse: (if any answer is “Yes,” ask the party to describe further)

- Describe how you and _____ handled finances and made financial decisions : _____
- Has _____ ever withheld your access to money or credit cards? Yes/No
- Has _____ ever forbid you to attend work or school? Yes/No
- Has _____ ever stolen from you or defrauded money or assets from you? Yes/No
- Has _____ ever exploited your resources for her/her personal gain? Yes/No
- Has _____ ever withheld physical resources such as food, clothing, necessary medications or shelter? Yes/No

I. Emotional Abuse: *(if any answer is “Yes,” ask the party to describe further)*

- Has _____ ever threatened or intimidated you to gain compliance? Yes/No
- Has _____ ever destroyed your personal property or threatened to do so? Yes/No
- Has _____ ever committed violence toward an animal or object in your presence? Yes/No
- Has _____ ever yelled, screamed, called you names, shamed, mocked or criticized you? Yes/No
- Has _____ ever been possessive of you? Yes/No
- Has _____ ever isolated you from friends or family? Yes/No

J. Gender-Based Privilege: *(if any answer is “Yes,” ask the party to describe further)*

- Describe how roles were divided between you and _____:
- Who:
 - helped with the children’s care
 - decided what your role was in the relationship or in the home
 - helped around the house with house cleaning, chores, etc
 - helped with outside chores
- Describe how decisions were made with _____:
- Does _____ express respect toward you? Yes/No

K. Intimidation: *(if any answer is “Yes,” ask the party to describe further)*

- Does _____ make you afraid by using looks, actions or gestures? Yes/No
- Has _____
 - ever destroyed property, particularly things that are important to you? Yes/No
 - displayed or talked about weapons in a way that caused you to be afraid? Yes/No
 - thrown or shoved objects in a way that caused you to be afraid? Yes/No
 - followed you, called you repeatedly, in a way that felt intimidating? Yes/No
 - gone through your mail, car, or household in a way that you felt violated? Yes/No
- Do you feel you shouldn’t talk about your relationship? Yes/No

L. Physical Abuse: *(if any answer is “Yes,” ask the party to describe further)*

- Describe any ways _____ has physically harmed you:
- Has _____
 - ever grabbed, pushed thrown or tripped you? Yes/No
 - pulled your hair, twisted your arm, pinned you down or slapped you? Yes/No
 - limited your access to food, drink, bathroom facilities, sleep medications or other physical self-care items? Yes/No

- ever thrown something at you? Yes/No
- hit, kicked, kneed or punched you anywhere on your body? Yes/No
- If you answered yes, were you pregnant at the time? Yes/No
- Has _____ ever strangled or “choked” you? Yes/No
- Have you ever needed medical attention as a result of _____’s actions? Yes/No

M. Sexual Abuse: *(if any answer is “Yes,” ask the party to describe further)*

- Have you felt forced to engage in unwanted sexual activity? Yes/No
- Are you concerned about _____’s inappropriate sexual behavior with or around children? Yes/No

N. Minimizing, Denying and Blaming: *(if any answer is “Yes,” ask the party to describe further)*

- When problems occurred during your relationship with _____, were you blamed for problems that weren’t your fault? Yes/No
- When problems occurred, were your feelings disregarded? Yes/No
- Did _____ feel justified for abusive behavior toward you? Yes/No
- Did _____ act as though abuse never happened, when it did? Yes/No

O. Other Concerns: Ability to Negotiate Freely and Make Informed Decisions

Screening Discussion Outline for Experienced Mediators

Topics:

1. Alcohol and drug use
 - a. Impact on relationship
 - b. Concerns with parenting time/around the children
2. Mental health concerns or diagnosis
 - a. Impact on parenting
 - b. Concern for how it would impact mediation
3. How do the two of you handle disagreements? Describe how you argue
 - a. Threatening behaviors
 - b. Physical altercations – any existing protection orders, restraining orders?
4. Who was in control during the marriage – or did you have more of a team approach?
 - a. Financial
 - b. Household chores
 - c. Child(ren) responsibilities
 - d. Any isolation from friends, family, work, etc.? Describe
5. During the separation...
 - a. Any concern about stalking or harassment?
 - b. How well are you communicating with each other? Describe how you communicate
 - c. If attending the same event for the child(ren), describe how it goes and how it make you feel
6. Describe the other parent’s personality | Describe your own personality
 - a. Who in the relationship tended to have a temper/short fuse?
7. Mediation
 - a. How comfortable/uncomfortable would you be developing a parenting plan in the same room?
 - b. How productive would mediation be with you both in the room together?
 - i. Have you already come to any agreements?
 - ii. What topics do you see as being problematic or difficult to resolve?
8. Address safety concerns

ASSESSMENT TOPICS:

- Physical abuse*
- Emotional Abuse*
- Sexual Abuse*
- Bullying
- Manipulation tactics
- Threats and intimidation
- Control
- Isolation
- Harassment
- Abuse of drugs and/or alcohol
- Mental health issues
- History of protection orders or restraining orders
- Past criminal charges/convictions that might affect parenting

*Abuse of partner, children, other involved parties

Mediator's Initial Individual Private Session (IPS) Determination

The IPS assessment process allows the mediator to determine whether to proceed with mediation or if proceeding (referral) to Specialized ADR (SADR) is warranted, or if neither process is appropriate and the case is to be terminated.

Per the Nebraska Parenting Act, § 43-2939(1): The mediator has the duty to determine whether to proceed in joint session, individual sessions, or caucus meetings with the parties in order to address safety and freedom to negotiate. In any mediation or specialized alternative dispute resolution, a mediator has the ongoing duty to assess appropriateness of the process and safety of the process upon the parties.

The following is a guide to determine, based on the assessment, what the appropriate process (mediation or SADR) is to proceed with, or if neither process is appropriate. If the mediator conducting the IPS has not had the advanced specialized alternative dispute resolution (SADR) training, the mediator shall not proceed but rather refer the case to a SADR mediator if the determination is that SADR is the appropriate process.

1. Do the responses given during the assessment indicate that the person is appropriate for joint session mediation? Yes → mediation No → SADR Uncertain → SADR
2. Is there a current protection order or other legal order that limits face-to-face interaction between the parents? Yes → SADR No → Mediation, though depends on answers to other questions
3. Does the person being assessed refuse to meet face-to-face with the other parent? Yes → SADR No → Mediation, though depends on answers to other questions
4. Does the person being assessed have doubts about meeting face-to-face with the other parent? Yes → Possibly SADR; need to take into account everything learned during the assessment No → Mediation, though depends on answers to other questions
5. Do the responses indicate that neither mediation nor SADR is appropriate for this case? Yes → Terminate; do not proceed with mediation or SADR. Refer the party to legal counsel and other resources, such as domestic violence serving agencies, social services, counselors, and others.

Date: _____

Name of Party Interviewed: _____

Signature of Mediator: _____

Initial Determination:

- Mediation (joint sessions)
- SADR (individual sessions or caucus meetings to address safety and freedom to negotiate)
- Termination of case

Keep this form in the case file for verification of IPS and determination.