

compelled to disclose any such communications unless the disclosure is necessary to enforce a written agreement that came out of the mediation, the disclosure is required by statute or regulation or the disclosure is required because the court finds that the interest of justice outweighs the need for confidentiality.

You are assigned to mediate a dispute that included a physical altercation between two seniors at an urban high school and was referred to mediation by local police. You have no more than ninety minutes in which to conduct the mediation. In your opening statement, what, if anything, would you say about mediation confidentiality? (Rank your answers from 1 to 4, with 1 being the best answer:)

- a. Say nothing at all about confidentiality unless asked, because I wouldn't want to mislead the participants about the uncertain scope of protection.
- b. Promise confidentiality (e.g., *"Everything you say here is confidential"; "What's said in this room stays in this room"*), without more; getting bogged down in complicated exceptions might confuse the participants and deter candid discussions.
- c. Promise confidentiality, making a general reference to limits (e.g., *"There are some exceptions, but they don't come up very often"*) and leaving it to the participants to ask about those exceptions if they want to.
- d. Try to provide a full description of the rule, its exceptions and the uncertainty of court enforcement.

What factors affected your choice?