

FREQUENTLY ASKED QUESTIONS ABOUT MEDIATION/ADR

What is mediation?

While conflict is a normal part of our daily lives, it can often be an uncomfortable experience, especially when it involves the workplace. Whether you are a manager or an employee and you find yourself in a dispute with an employee, manager, or other colleague, mediation can help you resolve issues in a private, confidential and timely manner.

The mediation process is informal and uses a neutral third party known as a mediator to facilitate the parties' resolution of the dispute. The mediators will not provide legal or personnel advice. The mediator has no power to make a decision or evaluate the merits of the issues at the table; instead, the mediator works with all parties to facilitate discussion that may or may not lead to the parties reaching a voluntary agreement of their own making. A mediation agreement, however, may not violate any of the parties or other third parties rights as found in law, regulation, policy, or under any collective bargaining agreement.

How does the process work?

The mediation begins with all the parties present as the mediator explains the process and answers any questions the parties may have at that time. After each party presents his/her concerns by giving some brief opening remarks, the mediator may ask questions to clarify or elaborate on a particular topic. After this first joint session, the mediator might meet with each party separately (caucus) to discuss the issues in greater detail and to gain a better sense of how the parties would like the issues resolved.

The mediation process may then continue with a series of separate meetings, or the mediator may decide to continue meeting with the parties jointly. During these joint and private meetings, the mediator will explore with the parties their suggested options for resolving the concern. The mediator can act in any number of facilitative roles, *i.e.*, communicator, translator, agent of reality, etc. The parties' **goal** for the mediation is to reach a mutually agreeable and appropriate resolution.

Upon completion of the mediation, each party is requested to fill out an evaluation of the process. Evaluation is not based on the outcome of the process as that rests in the parties' hands, rather the evaluation is focused on logistics and the process itself. Your participation in completing this form is appreciated.

Why should I use Mediation?

Mediation provides a ***confidential opportunity for discussion*** because the mediator will keep all information confidential in accordance with the ADR Act of 1996 and the Consent to Mediate form. The mediator will not willingly testify for or against either party in a court of law or an administrative process. Neither the mediator nor the program administrators will keep a written record of confidential communications made at the session.

Secondly, mediation is ***quick***. A mediation resolution enables both parties to take much less time to reach a cooperative agreement than the more timely (and costly) process of litigation. The rules of evidence do not apply.

Finally, participation in mediation does not waive your rights to pursue the matter in another forum; however, you must adhere to the time frames and regulations of that formal process. While mediation is designed to be an informal resolution process, it is entirely ***voluntary*** meaning the parties or the mediator may end the mediation any time.

Is Mediation right for me?

To assess whether or not mediation is right for you, please consider the following:

- a. Does the issue involve a continuing relationship?
- b. Do the parties want it settled confidentially and informally?
- c. Do the parties want a voice in shaping an agreement?

Contact your ADR Coordinator with any questions you have regarding mediation. If anyone involved in the mediation has a disability and needs a reasonable accommodation to participate in the mediation, you must notify the ADR Coordinator as soon as possible prior to the mediation.

Who should be present during the mediation?

Parties can represent themselves and have a representative with them.

How should I prepare for mediation?

Remember that mediation offers the chance to let others know how you view the situation, and it also offers an opportunity to work out an agreement for the future. With this in mind, come to a mediation prepared to explain your views and ready to listen to the views of others. Bring relevant documents, including e-mails, pay records or whatever is important and to the point. You can also prepare by thinking about the kinds of terms you might want in a final settlement agreement. Remember that the mediation is your chance to put the issues behind you!