

MEDIATION

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. When 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 an informal one that uses a neutral third party known as a mediator to facilitate the parties' resolution of the dispute. The mediator has no power to make a decision or force one on any party; instead, the mediator works with all parties to reach a voluntary agreement of their own making.

How does the process work?

The process usually begins with a joint session. During the first meeting, the mediator will explain the process and answer any questions the parties may have. After each party has had a chance to present concerns, the mediator may ask questions to clarify or elaborate on a particular topic. After the first joint session, the mediator may 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 issue 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 various options for resolving the concern. The mediator can act in any number of facilitative roles, i.e., communicator, translator, agent of reality, etc. The **goal** of mediation is to reach a mutually agreeable and appropriate resolution.

Why should you use Mediation?

Mediation is a **confidential opportunity**. The mediator will keep all information confidential. The mediator will not willingly testify for or against either party in a court of law or an administrative process. No written record will be made of the mediation process.

Secondly, mediation is **quick**. A mediation settlement takes much less time to achieve than the more timely (and costly) process of litigation. The rules of evidence do not apply.

Finally, you do not give up any of your rights to pursue the matter formally. While mediation is designed to be an informal settlement process, it is entirely **voluntary**. The parties or the mediator can end the mediation any time.

Is Mediation right for me?

To assist in choosing whether or not mediation is an appropriate ADR process for your dispute, you should consider the following:

- a. The case involves continuing relationships.
- b. The parties want it settled confidentially and informally.
- c. The parties indicate they would like to have a say in shaping an agreement.

Since the mediation process is voluntary, any party can end the proceedings any time, and the disputant may pursue the filing of a formal complaint under 29 C.F.R. Part 1614.

Who should be present during the mediation?

Parties can represent themselves and have a representative with them.