



MEDIATION GUIDELINES

Mediation

- Mediation is a voluntary and confidential process in which the parties attempt to resolve a dispute through direct communication in a private, informal environment with the assistance of a neutral mediator. It is the goal of the Center for Creative Conflict Resolution to make the mediation process comfortable, accessible, expedient, strictly confidential and most importantly a successful experience for the parties.

Voluntary

- Mediation is voluntary and may only occur if the parties have indicated their willingness to participate in advance by signing the Agreement to Mediate form. At the outset of the mediation, the mediator will review the Agreement with the parties before they sign it.
- Since mediation is voluntary, either party may withdraw from the mediation at any time simply by notifying the mediator.

Private

- Mediation is private and no one other than the parties directly involved in the dispute are required to be present. Parties, however, may bring legal or other representatives but should let the mediator know in advance if they plan to do so. Anyone other than the parties and their representatives may only attend with the permission of the mediator and the consent of the other parties.
- Taping or other written or electronic recording of the mediation is prohibited.

Confidential

- Mediation is confidential. The parties, their representatives and the mediator, are all obligated to keep the contents of a mediation, written or verbal, strictly confidential in accordance with the terms of the Agreement to Mediate, which the parties will sign prior to the mediation.
- The mediator shall not be compelled to divulge any information disclosed in the mediation or to testify subsequently regarding the mediation in any administrative or judicial forum, except as required by law.

Role of the Mediator

- The mediator's role is to remain impartial and to facilitate a discussion designed to help the parties reach a mutually satisfactory resolution of their dispute. The mediator does not offer legal advice, and does not have authority to impose a resolution on the parties.

- The mediator does not judge the parties' positions or decide the dispute for them. The role of the mediator is to assist the parties to engage in direct and honest communication and to help them find their own resolution.
- The mediator may conduct both joint and individual discussions with the parties during a mediation. Individual sessions may be requested by either party or by the mediator. Information disclosed to a mediator in an individual session is confidential and will not be disclosed by the mediator to the other party without the disclosing party's permission.

Role of the Parties

- A successful mediation depends on thoughtful, constructive communication. Thus, the parties must come to the mediation prepared to discuss all matters involved in their dispute. They should also be prepared to suggest potential resolutions. Whether a resolution is reached is strictly up to the parties, but parties are expected to participate in the process in a good faith effort to achieve a resolution.
- Parties are encouraged to speak directly to one another, and to listen to one another with an open mind.
- Parties should be prepared to present all information that they think would be helpful to understanding the issues in dispute. The mediator may require any party to supplement such information. Any written materials presented at the mediation will be shared with all participants at the mediation.

General Conduct

- The parties and their representatives are expected to address one another and the mediator in a civil and courteous manner at all times. Everyone will be given ample opportunity to speak. The parties are encouraged not interrupt each other or the mediator when someone else is speaking.
- The mediator is authorized to end the mediation at any time, if the mediator believes that the Mediation Guidelines are not being followed or a party is not participating in good faith or simply that further efforts at mediation would not contribute to a resolution of the dispute.

Resolution

- If the parties reach a resolution, the mediator will assist the parties in drafting a Resolution Agreement. The parties will sign and receive copies of the Resolution Agreement. The original Resolution Agreement will be forwarded to the referring agency for its files.
- Some Resolution Agreements may require Department action or approval. Any Resolution Agreement containing such terms will only become effective subject to Department approval. Any questions about implementation of the Resolution Agreement should be directed to the referring agency unless otherwise agreed upon.
- If a resolution is not reached, the dispute will be returned to the referring agency for further action.