



MEDIATION: WHAT YOU NEED TO KNOW

Workplace and organizational disputes can quickly escalate from an informal complaint to real or threatened litigation. The sooner the dispute is resolved or managed, the better. Assistance from a neutral third-party, called a mediator, can often help the parties reach a mutually agreeable solution.

Mediation is one of about 20 different processes collectively called Alternative Dispute Resolution or ADR for short. The purpose of ADR is to avoid or mitigate the high cost and disruption of formal and informal adversarial processes, including litigation.

What is mediation?

Mediation is a meeting where individuals try to resolve their disputes with the assistance of a neutral third-party called a mediator.

Why is mediation so popular?

Mediation is one of the most accepted ADR approaches since it is easy to understand, quick, non-threatening, economical, and very effective.

What is the relationship between mediation and negotiation?

Mediation is an assisted negotiation, where a third-party neutral helps the parties reach a mutually negotiated solution to their dispute.

Will mediation resolve this dispute?

Most, but not all, mediations result in an agreement. Predicting success is dependent on the parties' openness and flexibility to creative solutions.

Is the Mediation conference confidential?

Yes! Comments and discussions made in mediation conferences are highly confidential and cannot be used outside of the mediation without the expressed permission of the parties. There are a few very narrow exceptions to mediation confidentiality relating to the health and safety of individuals.

If an agreement is reached, is it binding on the parties?

The parties to the dispute determine if they wish to have a binding agreement.

What happens if a mediation is not successful?

Mediation is an extra, voluntary step in a dispute process. The parties continue with their dispute as if the mediation never occurred.

What is the cost of a mediation?

This is determined on a case-by-case basis depending on the case complexity, projected mediation time and location.

How long does a mediation last?

Most mediations last three to six hours in a single day. It's strongly recommended that the entire day be set aside once a mediation is scheduled. The exact length of a mediation will vary on a case-by-case basis.

Why not just litigate?

Ligation is often an option when there must be a winner and loser based on a legal ruling. Usually the parties in the dispute can better determine the best mutual outcome with a far less onerous mediation process.

What facts will the mediator consider?

None. The mediator is not a fact finder and will not make any factual determinations. The mediator offers the parties “reality testing” so they can self-determine what the facts may be in a specific situation.

How do mediation and arbitration differ?

There are many differences between these two ADR approaches. Arbitration is essentially a process using a private judge to determine which party will legally prevail. Mediation allows the parties to maintain full control over their decision making, without regard to a factual determination.

Who pays for a mediation?

The parties in the dispute decide how the fee payment will be shared.

