

Rules for Mediation

Definition of Mediation. Mediation is a process during which an impartial, neutral person (the mediator) facilitates communication between the parties in a dispute to assist reconciliation, settlement, or understanding among them. The mediator may suggest ways of resolving the dispute but may not impose his or her own judgment on the issues for that of the parties.

Mediator's Role. The mediator is a facilitator of the communication process, and is not an advocate, judge, jury, counselor, or therapist. The mediator does not give legal advice, solve the dispute, express an opinion on who is right or wrong, or make decisions for the parties. The mediator will help the parties to generate possible solutions and to choose a solution acceptable to each of them. At times, the mediator may meet separately with the participants during mediation to further the communication process.

Participants' Role. While no one is asked to commit to settle his or her case in advance of mediation, all parties commit to participate in the proceedings in good faith with the intention to settle, if at all possible. The parties must be sincerely interested in resolving their differences, have a certain trust in the mediation process, and be willing to talk openly and honestly about their concerns and issues. For mediation to be effective, participants must listen and be respectful for the success of the process. The parties understand that the mediator will not and cannot impose a settlement in their case and agree that they are responsible for negotiating a settlement acceptable to them.

Confidentiality. The mediation process is confidential. Anything said during the process should remain in the room and should not be used by either party for any reason outside of the mediation room. The only written material that becomes a record of the mediation is the agreement that the parties reach. The terms of the agreement are shared only with the parties themselves and the court system, if applicable.

Confidential information disclosed to a mediator by the parties in the course of the mediation shall not be divulged by the mediator. All records, reports or other documents received by a mediator while serving in that capacity shall be confidential. The mediator shall not be requested or compelled to produce or divulge such records or to testify in regard to the mediation in any adversarial proceeding or judicial forum.

Parties to Rely on Own Counsel. If the mediation is concluded by a settlement agreement, the parties are advised to have the agreement independently reviewed by their own attorneys and counsel before executing the agreement in final form. If a party does not wish to have its agreement reviewed by an attorney, it is not required to do so.

The parties understand and agree that the mediator is not acting as an advocate for any party and each party confirms that it has not relied upon legal advice or counsel from the mediator in entering into the settlement agreement.

Mediation Process. There are several steps included in the mediation process: an opportunity for all parties to be heard, identification of the issues to be resolved in the mediation, a generation of alternatives for resolution, and, if parties desire, the writing of an agreement.

Agreement of Parties. The parties involved in the mediation of the dispute agree to these Rules by their signatures on the Waiver and Consent form.