

Employee Workplace Mediation Program Frequently Asked Questions (FAQs)

Q. What is mediation?

A. Mediation is a process in which a neutral third party works with individuals in conflict to help them change their conflict interaction from negative to positive, as they explore possibilities for addressing their situation.

Q. What can be gained from mediation?

A. A clearer understanding about what the conflict is or better clarification of each other's viewpoint, which can result in an agreement to settle the conflict or dispute.

Q. When is mediation appropriate?

A. To decide whether mediation is appropriate for you, it may help to ask yourself the following questions:

- Does the relationship have to continue even though it is tense?
- Are there communication difficulties that a neutral third party may be able to assist in resolving the conflict?
- Are you open and willing to meet with the other party to resolve your differences?
- Is confidentiality important?
- How important is it that you retain control over the outcome?

If you answered "yes" to most of the questions, then your situation is probably suitable for mediation.

Q. What exactly is transformative mediation?

A. Transformative mediation is a process of mediation that encourages the parties in conflict or dispute to take a more active role in determining how they would like to talk about their issues. The transformative process is a conversation between the parties in which they decide how and what they would like to discuss.

Q. What is the role of a mediator?

A. A mediator listens during the discussion of those in conflict and makes observations that help the parties make clearer decisions about how they would like to talk about their issues. The mediator encourages the parties to decide what to discuss and to set their own agenda. The mediator can be expected to reflect back what has been said, summarize the discussions and promote confidence in making decisions.

Q. What will a mediator refrain from doing?

A. A mediator will not: 1) make decisions for the parties; 2) evaluate the merits of the conversation; 3) control the mediation in any way; 4) provide legal advice; 5) dictate how parties should address the dispute; or 6) recommend any settlement language or outcome.

Q. What if one party does not want to meet in the same room with the other party?

A. Generally, mediation works best when both parties can be in the mediation room together. This gives each an opportunity to hear what the other is saying, express what they feel are important needs, interests, values and goals, and what is needed to reach an agreement. If a party does not feel comfortable being in the same room with the other party, discuss this with the mediator prior to mediation. The mediator can help brainstorm some options or ways to address this issue before you meet.

Q. What about bringing other people to the mediation?

A. Bringing other people to the mediation is fine as long as both parties agree. Typically, if parties would bring other participants to the mediation, these individuals are referred to as non-party participants (NPPs). The NPP can be a union representative, co-worker or anyone else you choose. Parties must inform the mediator prior to the mediation and any NPP would be expected to sign an Agreement to Mediate.

Q. Will the mediator also give legal advice or act as my attorney?

A. Even if mediators are attorneys, in the mediation session, they will not give legal advice or act as attorneys. You always have the right, however, to consult with an attorney at your expense.

Q. What if the mediation is not going well?

A. Ultimately, a party can terminate the mediation process if he/she feels that it is not serving their interests, the party is not being respected, or that the discussions are not constructive or not likely to result in a good outcome.

Q. Can mediation work if the other party is locked into a particular position and is unreasonable?

A. Yes. Mediation can still work, even when one of the parties begins the process locked into a particular position. That's because, in mediation, the mediator will reflect back interests, values, and goals stated rather than your positions. The process provides an opportunity for the parties to obtain clarity about the other parties concerns, interests, values and goals as well. As each party begins to understand the other person's viewpoint, the need to be locked into a position is often relinquished. Once each party recognizes the other person's viewpoint usually agreement will follow.

Q. What steps can a party take to maximize the chance of reaching an agreement?

A. There are no guarantees that an agreement will be reached; however, mediation works best when parties: 1) participate with goodwill and optimism; 2) listen with patience; 3) reassess their own assumptions and understanding; 4) recognize and validate the other person's interests; 5) maximize information sharing; and 6) trust and follow the process.

Q. Why should a person choose mediation?

A. There are many reasons for mediation, but the primary reasons are: 1) mediation gives you an opportunity to be heard, develop new ways of addressing conflict or a dispute; 2) it helps to encourage positive and open communication by trusting, respecting, valuing each other's viewpoint; and 3) it offers a process that creates open dialogue to remove communication barriers, resulting in improved relationships and workplace morale.

Q. Is this a confidential process?

A. Mediation is a confidential process – by law and by agreement. You will be asked to sign an Agreement to Mediate, which include provisions governing confidentiality. Confidentiality means not discussing the mediation with anyone outside the mediation. Confidentiality is reinforced by the agreement the parties sign before the mediation begins.

Also, mediators will not discuss the case outside of the mediation session – with friends, co-workers, attorneys, employer, etc. without the permission of the parties. However, the mediators may discuss these issues with the OEAP Program Coordinator as needed to manage the case, get advice on how to proceed, etc. and ongoing skill enhancement.

Q. Are there any exceptions to confidentiality or privilege?

A. The mediator agrees not to disclose any communication, oral or written, shared by a party to the mediator in confidence, unless:

- All parties agree in writing to disclose the information, or
- The information has already been made public.