

Mediation - What it is and How it Works (General)

What is Mediation: Mediation is a process where the disputing parties meet together with an outside professional (the mediator) to discuss and attempt to resolve their differences on terms that all parties can agree. Mediation is voluntary, informal, convenient, and successful in over 80% of cases. Parties usually share the costs of the mediator's fees and expenses.

Role of the Mediator: The mediator is an independent impartial professional trained and experienced in this type of work. The mediator oversees the process and work with the parties to encourage the sharing of information and views as they work towards developing a mutually satisfactory resolution. The mediator will not give advice to any party on their rights nor will the mediator make judgements about the resolution reached or options for resolution generated in the discussions.

Role of the Parties: To prepare and to then enter the mediation discussions with an open mind, honestly state their information and reasons, and work towards understanding the other party. To assist the mediator and the other parties in the process.

Steps in the Process:

Step 1 - Parties talk and agree to go to mediation and choose the mediator

If you wish to start the mediation process, contact the other side (verbally or by letter, fax or email) outlining what you see as the dispute, what your view is and what you see as the potential outcome. The attached Request to Mediate is a sample. Invite the other side to join with you to appoint an mediator to work with both of you. Suggest possible names of mediators you would find acceptable. Ask the other party to review and choose from the names you provide or to provide alternate names. Go back and forth until you agree on a mediator.

If you cannot agree on the name of a mediator, consult an agreeable outside source to select one for you. Sometimes a mediator can help you bring the other person to the table.

Step 2 - Parties contact the chosen mediator and the mediator agrees to act

One or both of the parties then contacts the agreed mediator to see if the mediator is willing and available. After being contacted by the parties to serve as mediator, the mediator:

The mediator will set up a meeting or telephone interview with each party separately to:

- a) introduce the mediator
- b) outline the process for structuring the joint discussions between the parties and the time lines
- c) assist each party/group to identify who should be present at the mediation table and the items that need to be resolved
- d) identify dates for the joint meetings.

Step 3 - Parties and mediator meeting in joint mediation sessions

Joint meetings of all parties (with any support or representation they wish) will begin at a date and time identified by the mediator, after meeting with all the parties. These joint meetings continue on times and dates agreed by all parties as required. All joint meetings will be held at a neutral location.

At the joint meetings, the parties and mediator:

- a) discuss the guidelines required to assist in positive, collaborative discussions
- b) discuss any concerns about confidentiality of the discussions
- c) develop the agenda for the joint discussions and determine the order for addressing those agenda items
- d) discuss the times for future meetings
- e) proceed to discuss the matters (one by one) to share information and create understanding of the importance of those matters to the parties
- f) once a level of understanding is reached, explore creative options to resolve the matters in dispute which satisfy all parties
- g) select the option(s) that work for all and detail the settlement
- h) document the settlement (the mediator may help the parties draft the settlement document).

Additional Information: The Mediator will prepare and send to each party some information about how you can prepare for the joint mediation sessions. The Mediator will also forward a draft "Agreement to Mediate" for parties to review. The parties and mediator will discuss this document, make any changes and then everyone participating will be asked to sign it before we begin to discuss the details of the dispute.

Code of Ethics, Confidentiality and Privacy of Personal Information

The Mediator adheres to the ADR Institute of Canada Inc. Code of Ethics available at <http://www.adrinstitute.ca/>. Mediators treat the information in the mediation process as confidential. High Clouds Incorporated protects the privacy of any personal information under its Privacy Policy.

If you have any questions on the mediation process, please feel free to contact us at 780-466-8250.

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Mediator
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