

What Is Mediation?

Mediation is an interest-based ADR process in which a third party neutral (the mediator) meets with two or more parties who have a conflict, facilitates discussions, and assists the parties in reaching a mutual resolution of their differences. The mediator does not have decision-making authority; resolution rests with the parties.

There are several key elements to mediation:

- Voluntary - Either party can leave at any time for any reason, or no reason.
- Collaborative - The parties are encouraged to work together to solve the problem(s) and to reach what both parties perceive to be their best agreement.
- Controlled - The parties have complete decision-making power and control over the provisions of any mediated agreement. Nothing can be imposed on either party.
- Confidential - Mediation is confidential. However, there are exceptions. There are statutory provisions that govern the confidentiality of mediations that take place in the Federal Government workplace. There may also be state laws that require mediators to disclose certain information ,e.g., child abuse.

Generally speaking, all communications between the parties and the mediator are confidential and cannot be used in any legal proceedings unless all of the parties agree or a court determines that disclosure is in the public interest.

- Impartial - The mediator has an equal and balanced responsibility to assist each party and cannot favor the interests of one party over another. Mediators are ethically obligated to acknowledge any substantive bias on issues being discussed. The mediator's role is to ensure that the parties reach agreement in a voluntary and informed manner, and not as a result of coercion or intimidation.