

MEDIATION GUIDELINES AND STANDARDS FOR THE OFFICE OF HUMAN RIGHTS

The Government of the District of Columbia Office of Human Rights, hereinafter referred to as "OHR", is committed to provide a mediation process to assist both Complainants and Respondents as a form of alternative dispute resolution. Mediation is tenable only where minimum standards of quality and procedural safeguards insure just and fair processes and outcomes.

Mediation is the mandatory process by which the parties to a dispute attempt to resolve their differences with the assistance of a third party neutral. Untimely, resolving a Complaint through mediation is entirely dependent on both parties entering into a mutually binding and agreeable settlement. Unlike arbitration, the third party neutral has no jurisdiction to unilaterally impose a decision on the parties, and therefore, the parameters that govern arbitration need not apply to mediation.

A. Qualifications of Mediators

In determining whether to list an individual on OHR's mediation roster, OHR will examine a variety of factors. Generally OHR will examine the ability of the individual to fairly and efficiently administer, manage and mediate disputes before him/her. In addition, OHR shall require that all mediators have formal mediation training and education recognized by the District of Columbia, the United States Equal Employment Opportunity Commission, and the U. S. Department of Housing and Urban Development and surrounding jurisdictions.

The following are examples of other factor that will be reviewed by OHR in determining whether a prospective applicant should be listed on OHR's roster of mediators:

1. Completion of a Certification Mediation Program
2. Successful participation in at least four (4) co-mediations or have successful participation in five (5) independent mediations with positive evaluations.
3. Good references submitted from at least two certified mediators/trainers.
4. Evidence of a professional career that demonstrates the applicant has the ethical background necessary to perform the duties of a mediator for OHR.

Additionally, the applicant must provide evidence that he/she is familiar with the following statutory jurisdictions.

1. The Human Rights Act of 1977
2. Title VII of the Civil Rights Act of 1964, as amended
3. The Age Discrimination in Employment Act of 1990
4. The Age Discrimination in Employment Act of 1967
5. The Fair Housing Act
6. The District of Columbia EEO Procedures

OHR will take affirmative steps to insure that its roster of mediators maintained are professional and reflect a broad diversity of backgrounds. All mediators have a duty to disclose to the parties of any relationships, which might reasonably constitute or be perceived as a conflict or interest, **including any pending matters before OHR or the Commission on Human Rights.**

B. Standards for Mediator

All applicants approved to participate as mediators in the OHR's mediation program will adhere to the following requirements.

1. The mediator shall recognize the mediation is based on the principle of self-determination by the parties.
2. The mediator shall conduct the mediation in an impartial manner.
3. The mediator shall disclose all actual and potential conflicts of interest reasonable known to the mediator.
4. The mediator shall mediate only when the mediator has the necessary qualifications to satisfy the reasonable expectations of the parties and the OHR.
5. The mediator shall maintain the reasonable expectations of the parties with regard to confidentiality.

C. The Mediation Proceeding and Decision

The Mediation Coordinator shall appoint a time and place for the hearing and cause written notice to the parties to be served by certified U. S. mail. The mediator shall issue, upon the conclusion of the mediation, a document representing the Agreement between parties, if so warranted and acquired. Any and all Agreements shall comply with the standard and requirements set forth by the Mediation Coordinator and the Director of OHR. All Agreements shall include language, which makes the Agreement an enforceable Order of OHR and shall be signed and approved by the Director of OHR.

All mediations, with the exception of mediations on Housing issues, shall be reviewed by the Mediation Coordinator before submission to the Director of OHR.

In addition, all Housing mediations shall be reviewed by the Housing Coordinator and the Mediation Coordinator prior to submission to the Director for final approval and signature. Mediators, and the Housing Coordinator when mediation is based on Housing, shall make an

affirmative effort to include remedial measures, and clauses that specifically protect the public's interest and not just the Complainant's interest with respect of housing cases.

All mediation settlement agreements shall be kept on file for one year by either the Mediation Coordinator and/or the Housing Coordinator (when housing is the issue being mediated), and periodically reviewed for its successful execution.

D. Compliance and Enforcement

In the event that there is a breach of the agreement, the following procedure will be executed by the party alleging the breach:

1. The party will make a formal request for review of the alleged breach to the Director of OHR, within 30 days of the alleged violation. The Compliance Officer for the OHR will contact all parties concerned to insure that settlement stipulations are clear to all parties and compliance of the agreement is attained.
2. When necessary, the Compliance Officer will conduct an investigation into the allegation of non-compliance and report the finding to the Director of OHR.
3. The Director will make the final determination on the enforcement of the agreement in accordance with the jurisdiction of the OHR.