

Who Should Participate in the Mediation?

Mediation is a cooperative, voluntary process that requires the participation of all parties and representatives to be effective.

When is Mediation Available?

A case may be referred to OMCR any time after the Verified Complaint, Answer(s)/Position Statement(s), and Rebuttal have been filed with LEB. To be eligible for mediation, all parties, including LEB, must agree. Mediation may also be available when LEB is attempting resolution through the use of conciliation or after LEB issues a finding of probable cause.

What Does Mediation Cost?

OMCR provides mediation services free of charge.

How Do I Request Mediation?

If you are interested in pursuing mediation for a case pending before the Commission, contact the investigating attorney. If you are interested in learning more about mediation in general, contact Elizabeth J. Champnoi, Director of Mediation and Conflict Resolution at 212-416-0228. Please note that all case specific questions should be directed to the investigating attorney unless your case has been referred to OMCR.

What Happens if My Case is Resolved in Mediation?

If your case is resolved in mediation through OMCR, LEB will close the case without further investigation.

What Happens if My Case is Not Resolved in Mediation?

In the event the case does not settle and the mediation is terminated, OMCR will refer the case back to LEB for further processing.



Office of Mediation and Conflict Resolution

MEDIATION

QUESTIONS AND ANSWERS

Can mediation help me?



NYC.gov/HumanRights
f @ YouTube @NYCCHR

Dial **311** for more information.
Dial **911** in case of emergency.



THE OFFICE OF MEDIATION AND CONFLICT RESOLUTION

New York City Human Rights Law § 8-115 permits the New York City Commission on Human Rights (“Commission”) to attempt resolution of complaints filed with the agency through the use of mediation. The Commission’s Office of Mediation and Conflict Resolution (“OMCR”), independent from any other Commission office, provides parties with mediation services, at no cost, to help facilitate resolution.

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What is Mediation?

Mediation is a form of dispute resolution that serves as an informal alternative to the traditional investigative or litigation process. In mediation, a neutral third party known as a mediator helps the parties reach a voluntary, negotiated resolution. Mediation gives the parties the opportunity to meet and discuss their views of the case; clear up misunderstandings; identify underlying interests and concerns; find areas of agreement; and identify creative solutions. The goal of mediation is for the parties to reach a mutually acceptable outcome of the pending dispute. Mediation is not so much about finding truth or justice as it is about searching for options and crafting solutions that allow the parties to move forward and put the dispute behind them.

Do I Have to Mediate?

No. Mediation is voluntary. A case will only be referred to OMCR if all parties agree to mediate and the Law Enforcement Bureau (“LEB”) agrees the case is appropriate for mediation. Any party may choose to discontinue the mediation at any time. The mediator may also choose to terminate the mediation.

What is a Mediator?

A mediator is an independent person, experienced and trained in the mediation process, who assists the parties in reaching an agreement. A mediator does not take sides or decide who is right or wrong. Instead, the mediator is impartial and neutral.

What are the Benefits of Mediation?

FAIR AND NEUTRAL: Parties have equal say in the process and decide the settlement terms.

INFORMAL: The parties can speak candidly during the mediation without fear that what is said will be held against them later.

SAVES TIME AND MONEY: Mediation requires less time and expense than an investigation or trial.

CONFIDENTIAL: Prior to mediation, all parties sign an agreement of confidentiality stating that information disclosed during mediation will be kept confidential, unless otherwise discoverable as required by law or pursuant to a court order, subpoena, or other validly issued order or notice of a court or administrative body of competent jurisdiction. Information disclosed during the mediation will not be revealed by OMCR to any other employee of the Commission. Although the Commission is subject to the New York State Freedom of Information Law (“FOIL”) which governs the process for the public disclosure of certain records maintained by the Commission, the law contains several exemptions that may apply to documents, or portions thereof gathered during the mediation process. See Public Officers Law Article 6, §§ 84-90.

CERTAINTY: Mediation avoids the uncertainty of investigative and litigation outcomes.

EMPOWERING: The parties control the outcome of the dispute.

Are Attorneys Needed?

While it is not necessary to have an attorney or other representative participate in mediation, it is encouraged. Attorneys can assist the parties in understanding the law and making informed decisions. The mediator does not provide legal advice to the parties. Therefore, parties are

encouraged to seek the advice of an attorney to assist in representing them during the mediation, particularly prior to signing any settlement agreement.

Is Mediation Binding?

By participating in mediation, parties are not committing in advance to any particular outcome and the mediator cannot impose a settlement. However, any settlement agreement signed by the parties is binding and enforceable in a court of competent jurisdiction.

What Can I Expect During the Mediation Session?

Once a case is referred to OMCR, you can expect to be contacted by the mediator. The mediator will identify the next steps in the process. Each case is different. Generally speaking, the mediator will review all papers forwarded by LEB and reach out to each party to gain a better understanding of the dispute or request additional information. Often, the mediator will then schedule an in-person mediation session.

THE IN-PERSON MEDIATION SESSION

In most cases, all parties will begin the mediation session together in one room. This is called a joint session. After each person introduces themselves, the mediator will discuss the ground rules. The parties may then stay in the same room discussing their views of the case, or meet privately with the mediator. A private meeting with the mediator is known as a caucus.

During a caucus, the mediator will further explore the party’s views about the strengths and weaknesses of the case, what they want to accomplish through settlement and any economic or non-economic damages.

Information discussed during a caucus remains confidential unless the party permits the mediator to share information with the other party. If a resolution is not reached during the first in-person session, more in-person sessions may be scheduled. Plus, the mediator may continue to work with the parties over the phone. If no resolution can be reached, the case will be referred back to LEB for further processing.