

The Purpose and Process of Mediation within the Context of the Minneapolis Civil Rights Commission

Context and Description

1. Mediation is a process where a neutral third party, called a mediator, facilitates a conversation that focuses on empowerment and mutual recognition of the participants (commissioners).

The mediator can be a commissioner member, Civil Rights Department staff person, or community member (paid/voluntary) ideally with mediation expertise. The mediator should not be a person who is directly involved in the issues resulting in the mediation request.

2. The mediator's purpose is to assist the parties in analyzing the circumstances prompting the mediation, considering each other's perspective, and ultimately making effective decisions for themselves regarding outcomes.
3. The resolution does not mean settlement. A settlement is not the ultimate or primary goal, but merely one possible outcome of the process. The goals of the mediation should not be solely focused on resolution or settlement of the dispute, but rather autonomy over the process and improving interactions between the individuals involved. A successful mediation is one where the parties emerge with a better understanding of each other's perspectives and clarity over the circumstances that brought them to this process.
4. The purpose of this process is meant to empower those involved by recognizing that they are in the best position to resolve their disputes and the mediator is merely acting as a facilitator of the conversation. The process is voluntary once it has begun, but both parties should participate in good faith, i.e. agreeing to mediation and attempting to do so to the best of their ability. Once the mediation has begun, either party can end the mediation if they feel it is not effective or productive. The mediator should avoid making this determination and allow the process to continue, even if the mediator believes either party is not acting in good faith or the process is devolving.
5. The mediator should focus, and encourage, the parties to express their emotions, feelings, or beliefs and allow each party to respond to those expressions. The parties shall be in control of the discussion, the topics, and the outcome or resolution. The parties, before the mediation, should try to identify ideas or ways the other party could reasonably meet their interests. The party seeking mediation, if possible, should address the issues with the other party before seeking mediation so that, in the event mediation is necessary, the responding party is aware of the issues to be discussed.
6. Mediation is voluntary. The parties are not required to agree, and the mediator does not have the power to decide for the parties but can help the parties find a mutually acceptable resolution. The only people who can resolve the dispute in mediation are the parties themselves.

7. Mediation is not appropriate in all contexts. For example, when the parties do not have equal bargaining power, or when disputes arise out of systemic issues, mediation may make a conflict worse. Disputes that allege direct violations of the Commission's Code of Conduct, raise Civil Rights concerns, amount to discrimination or hate speech, or rise to the level of criminal conduct may not be suitable for mediation and may need to be raised to the Executive Committee or Civil Rights Department for investigation or complaint. If a person wishes to pursue mediation in the event of any of the foregoing, the party may do so, however, disciplinary action or investigation may still result even after the mediation occurs.
8. Persons interested in mediation should first seek to discuss and resolve the matter directly with the other party, if possible.

Mediation Process

1. To initiate the mediation process, the party seeking mediation should identify a mediator within the commission, civil rights department, or within the community, and contact the party they wish to engage in mediation with. Contact via email or directly is acceptable. If the commissioner asked to conduct the mediation is unable or unwilling, the requesting party may seek another commissioner or ask the executive committee for assistance.
2. Once a mediator is designated and the request to mediate has been issued, the mediator will work to find a mutually suitable time to conduct the mediation. The mediation can be held virtually, or in person, as circumstances allow, and a minimum of two hours should be planned for the session. If the mediation is held in person, the session should take place in a private, neutral space where there is room for the parties to separate, if necessary. City Hall might be a suitable option for this. The mediator should work with staff in the Civil Rights Department to secure this space. If held virtually, Teams offers "breakout rooms" for participants to go to, where the mediator can also join with the parties individually, if necessary.
3. The mediator may meet with the parties before the mediation session to better understand the dispute and determine the willingness of the parties to participate in the mediation process. That person shall keep all information strictly confidential unless either party agrees that some or all of the content can be shared with the other party beforehand. The mediator should attempt to obtain only the following information:
 - A. The version of events prompting the mediation request or the issues the requesting party (or both parties) would most like to be addressed.
 - B. The possible outcomes the requesting party (or both parties) would like to see to best address the issues identified in section (a).
4. Alternatively, the parties may submit a brief written summary of the incidence(s) or interaction(s) prompting the request for mediation and their proposals for resolution instead of meeting with the mediator before the session. This information will remain confidential to the mediator who will review this information before the mediation session and only share the proposals for resolution at the appropriate time.

5. At the time of the mediation session, each party shall have an opportunity to express their expectations for the session, their goals, and they shall determine or agree to the following:
 - A. The parties are participating voluntarily;
 - B. Identify the ground rules for mediation, if any (as determined by the parties, only), such as:
 1. Whether the mediation is conducted in the same room or separately (known as caucusing), with the mediator traveling back and forth.
 2. The agenda for the mediation and how the agenda progresses;
 3. How perspectives, positions, and beliefs will be shared (turn-taking, statement-response, proposal-counter, debate, monologue, etc.);
 4. How expression of emotion or distrust will be expressed; and
 5. When breaks are taken, if at all.
 - C. The mediator will facilitate a conversation that focuses on empowerment and mutual recognition of the parties. The mediator's purpose is to assist the parties in analyzing the situation, consider the other parties' perspectives, and make effective decisions for themselves. A settlement is not the ultimate or primary goal, but merely one possible outcome of this process. Only the parties and the mediators will be present for the mediation. All communication and information will be kept confidential.
 - D. If a resolution is reached that requires action to be taken by either party, this resolution can be reduced to writing by the mediator and distributed to the parties, if they deem necessary. The parties may, on their own accord, provide the information to the Executive Committee or the Commission at-large, if they feel it is necessary.
6. If at the end of the mediation session, either party determines that another session is needed (with the same or a new mediator), or that the mediation did not provide satisfactory outcomes, that party may wish to pursue another process to address their complaint. This includes, but is not limited to, the following:
 - A. Civil or other legal processes;
 - B. Submitting a complaint to the Civil Rights Department or other applicable body; or
 - C. Requesting the Executive Board to investigate and seek disciplinary/removal action through the appointing body.

Other Considerations

1. Depending on the type of dispute or the parties involved, outside mediators might be preferable to obtain neutrality or someone with a better understanding of the socio-cultural identities of the

disputing parties. Developing a working list of mediators in the community within to offer these services is a good idea, whether voluntary or unpaid or looking for candidates with mediation/conflict resolution expertise to be on the commission in the future.

2. If the parties agree to mediation but do not agree to a particular mediator, the Executive Committee may assign a designee to connect with each party to determine how best to proceed and make recommendations what who may be appropriate to do mediation or whether mediation is appropriate at all.
3. If a party refuses to engage in mediation, the party requesting the mediation may consider their alternatives to addressing the conflict, which may include a complaint process/investigation or disciplinary action as allowed by the Ordinance and Commission IOPS. If the grievance does not rise to the level of any of those alternatives, the requesting party may ask the executive committee to assist in addressing the conduct or behavior by the other party on an individual basis.