

## **Mediation is a Way to Resolve Disputes**

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**Mediation is one form of** Alternative Dispute Resolution (ADR). Others are negotiation, conciliation, and arbitration; all are alternatives to the litigation process. In fact, the term "mediation" covers any activity in which an impartial third party – usually a professional trained in the skills of conflict resolution – facilitates agreement on matters in the common interest of the parties involved.

Almost any type of conflict may be resolved successfully through ADR; such as contract, partnership, construction, insurance, condominium, motor vehicle, payment for goods/services, commercial, and landlord/tenant disputes.

Although both mediation and arbitration involve a neutral third-party intervener, mediation differs from arbitration in being a diplomatic rather than a judicial procedure. The mediator does not impose a decision, but rather facilitates a discussion through which the disputants arrive at a mutually agreed upon settlement. Lawyers may be present or consulted at any time and disputants retain the right to pursue other forms of redress should the facilitated process not be sufficient.

Mediation is often chosen when the ongoing relationship between the parties is important. It commonly encompasses the following characteristics:

- Two or more people experience a controversy, dispute or difference of positions, or a need for decision-making or problem-solving.
- The disputants retain decision-making power, rather than accepting a third party's solution.
- The strength of the outcome rests on the willingness of the parties to negotiate a positive solution to their problem, and their openness to accept discussion about each others' interests and objectives.
- The parties' intent to achieve a positive result through the facilitative help of an independent, neutral third person is crucial to the achievement of a positive outcome.

Conciliation is much like mediation except that the parties rarely meet with the conciliator at the same time. Rather, the conciliator meets with each separately, attempting to help each disputant determine on which concerns he or she is willing to make concessions and achieve compromise. By contrast, mediation is a process that encompasses all the parties' needs, including the emotional ones, in an attempt to achieve the best possible outcome – i.e. "win/win" solution – for all.

Mediation differs from most other conflict resolution processes by virtue of its simplicity, and the clarity of its rules. Although it has no legal standing per se, mediated agreements between the parties can be committed to writing and signed, thus making them legally binding in some jurisdictions.

People make use of mediation at all levels and in all contexts, from minor disputes to global peace talks. In the workplace, wrongful termination, discrimination, harassment, grievances, and disputes between management and staff are the most common circumstances for mediation.