



Mediation

[ADR Spectrum](#)

Mediation

[Mediation Guide](#)

[Mediators Ethic Guideline](#)

[Arbitration](#)

[Arbitration Ethic Guideline](#)

[FAQs](#)

[ADR Glossary](#)



Mediation Defined

Nature of the Process

Mediation is a process wherein the parties meet with a mutually selected impartial and neutral person who assists them in the negotiation of their differences.

Role of the Mediator

Mediation leaves the decision power totally and strictly with the parties. The mediator does not decide what is "fair" or "right," does not assess blame nor render an opinion on the merits or chances of success if the case were litigated. Rather, the mediator acts as a catalyst between opposing interests attempting to bring them together by defining issues and eliminating obstacles to communication, while moderating and guiding the process to avoid confrontation and ill will. The mediator will, however, seek concessions from each side during the mediation process.

Forbearance from Litigation During Mediation and Confidentiality of Proceedings

At the outset of a mediation process, the mediator may well seek agreement from the parties to forbear from litigation during the mediation process and to hold everything that is said in the various sessions confidential and not deemed an admission or used against any party in any other proceeding if mediation fails.

Procedures: Joint Session Followed by Private Caucuses

Mediation generally begins with a joint session to set an agenda, define the issues and ascertain the position and/or concerns of the parties. This allows the parties to attack the resolution process either on an issue-by-issue or group-by-group basis.

The joint session is then followed by a separate caucus between the mediator and each individual party or their counsel. This allows each side to explain and enlarge upon their position and mediation goals in confidence. It also gives the mediator an opportunity to ask questions which may well serve to create doubt in an advocate's mind over the validity of a particular position.