

Mediation

What is Mediation?

Mediation/Facilitation is a process in which a neutral person (mediator) helps others to negotiate solutions to a problem or resolve a conflict. The mediator helps participants in mediation to develop win-win outcomes by:

- clearly hearing and understanding one another
- identifying and respecting the true needs and concerns of one another
- brainstorming options for ways to resolve the matter, and
- selecting solutions which satisfy the concerns of all involved

Mediation is confidential. Participants and the mediator agree not to disclose information from the mediation to anyone else. Any exceptions to this can be negotiated by the participants at the beginning of the mediation session.

The confidentiality of a mediation process is protected by the Alternate Dispute Laws under Texas Civil Practices and Remedies Code Section 154.

Mediation is voluntary. Except in certain legal situations, no one is compelled to participate in mediation. People who go to mediation do so voluntarily. Once in mediation, no one is bound to reach agreement. Participants freely choose whether or not to reach agreement with one another and, if they do, the participants themselves decide what the resolution will be. Mediators do not impose solutions on the participants.

The mediator's role. The mediator facilitates the process of communication and negotiation during mediation. The mediator is neutral and impartial. S/he does not favor any person in mediation nor does s/he favor any particular outcome.



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How Mediation Works?

A typical mediation includes the following steps or stages:

- **Introduction:** the mediator begins the process with a few words about mediation and the process that will be followed.
- **Opening Statements:** each participant has a period of uninterrupted time to describe the situation as s/he sees it.
- **Setting the Agenda:** having heard and understood the participants, the mediator sets forth the issues that will form the substance of the discussion to follow as well as the parties' real concerns with respect to those issues.
- **Brainstorming Options:** the mediator helps the participants to brainstorm possible solutions.
- **Selecting Solutions:** the mediator assists the participants to evaluate the options they have identified to see which best satisfy the most important needs of each participant. The participants select win-win solutions to which they mutually agree.

Advantages of Mediation

- Mediation preserves relationships. Even if participants are unable to resolve their differences in mediation, the process opens up communication and inevitably helps participants to understand one another better.
- The mediation process is collaborative, not adversarial. Participants work together to solve a problem, not win an argument or battle.
- Mediation is a win-win situation. The goal is to reach agreement on solutions, which meet the underlying needs and concerns of all participants.
- Mediation often yields more creative, satisfying solutions than anyone envisioned prior to the mediation.
- Mediation is informal. Rigid guidelines and timelines are not the norm.

Why, When and How to Choose the Mediation Process?

- Mediation is preferred alternative in instances when the participant's relationship with one another is important and likely to continue (e.g., in the family, workplace, neighborhood, church, etc.)
- Ideally, people come to mediation after their own efforts to resolve differences have failed but before conflict or frustration escalates into strong polarities and personal hostilities.
- Ombudspersons at M. D. Anderson Cancer Center are available to conduct employee mediations upon request. They are also available for pre-mediation consultation to help you decide whether mediation is for you.



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Preparing for Mediation

- Using the grid on the following page, think through and write down your issues, goals, underlying needs and what is likely to happen if you can't work things out. Then try to think through and jot down what the other mediation participant(s) might say about his/her/their issues, goals, underlying needs, etc.
- **Practice how you are going to formulate your concerns:**
Let go of blame—it only raises defenses. Talk about the impact the situation has on you.
Speak only for yourself, using “I” language (I think...I believe...I prefer...It seems to me that...)
- **Get ready to listen:**
What do you and the other participant(s) agree upon?
If you were in the other person's shoes, would you be saying the same thing that person is saying now?
What is really driving this (the other) person? What is really important to him/her/them?



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Discovery: We help each other to identify and solve problems.

Preparing for Mediation Grid

My View

The Other's View

Issue(s)		
Goals (<i>What do I want? Be clear, specific, realistic, & optimistic.</i>)		
Needs/Concerns? (<i>Why do I want what I want?</i>)		
Outcomes? (<i>What's likely to happen if we can't work this out?</i>)		

Discovery: We embrace creativity and seek new knowledge.

Discovery: We encourage learning, creativity and new ideas.

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Discovery: We seek personal growth and enable others to do so.