
SOUND LEGAL CENTER PLLC

MEDIATION PROCEDURES

What is mediation?

Mediation is a voluntary, confidential process in which the parties use a neutral third party—the mediator—to help them resolve their dispute. The mediator has no authority to impose a solution or decision on the parties.

Why does mediation work?

Mediation is a very successful method for resolving a wide variety of disputes. One reason mediation is such a good tool for dispute resolution is that it is a voluntary process—all parties keep control over the outcome. Another reason is that mediators are trained to provide a safe, confidential, neutral forum for the parties to express, discuss, negotiate and resolve their differences. Also, mediation often (but not always) focuses on the true *interests* of the parties in addition to the *rights* of the parties.

Litigation (dispute resolution by lawsuit) is often very stressful, time consuming, expensive and uncertain. Even parties who win in litigation can end up paying more in attorney fees than is awarded in judgment. When a party does win a judgment in litigation, there are sometimes difficulties in collecting upon that judgment. Mediation can provide a positive alternative to litigation.

How is mediation confidential?

With very limited exceptions, nothing that happens in the mediation may be introduced as evidence in a court case. The mediator cannot be called to testify concerning the mediation. Nor can the parties be required to testify concerning the mediation. All settlement offers and counteroffers are confidential. If, however, an agreement is reached at mediation, that agreement will not necessarily be confidential. At Sound Legal Center, we typically shred all the mediator's notes 30 days after the mediation.

How is mediation voluntary?

It is entirely up to the parties whether to attend and participate in mediation (unless it is a court or contract-mandated mediation). Once at the mediation session, it is entirely up to each party what that party wishes to agree to or not agree to. The mediator may make suggestions or provide input, but may not impose any terms or agreements upon any of the parties.

How is mediation different from arbitration?

Like mediation, parties can voluntarily agree to go to arbitration. However, once the parties have agreed to arbitration, the arbitrator hears both parties and renders a binding decision. In arbitration, the decision of the arbitrator is binding, even if the parties do not agree with it.

Is all mediation the same?

No. Mediations can be very different, depending on the context and the mediator. In some mediations, it can be useful for the mediator to provide evaluations of each party's legal position, assessing the *rights* at issue. In many mediations, however, it is more useful to the parties for the mediator to work hard to get at the underlying *interests* of the parties. In this type of mediation, there will be less focus on legal rights or evaluation of strengths and weaknesses of a case, but more focus on workable solutions. Some mediations will take place with the parties sitting in separate rooms for the entire mediation. Many, however, will have the parties seated in the same room for much of the mediation.

At Sound Legal Center, we believe that mediation is more successful when tailored to the specific situation. We use a variety of techniques and styles—sometimes several in the same mediation—in order to achieve optimal solutions. Again, it is very important that the parties have a safe, neutral place to work out solutions. We understand that requires the mediator to be proficient in a number of styles, and flexible in using those styles.

How long does mediation last?

At Sound Legal Center, we offer a half-day mediation session (4-hour session) or a full-day mediation session (8-hour session). Parties may reach complete or partial agreement during the session. If further sessions are desired, the parties may schedule as many as they need.

How much does mediation cost?

Please see the [Sound Legal Center Fee Schedule](#) for current rates.

Who should attend the mediation?

All people who need to be involved in the decisions/agreements should attend the mediation session. We strongly discourage parties from mediating unless the participants have the authority and ability to enter into binding agreements.

Who do I contact to find out more?

The mediator will be happy to provide you with more information about the process. However, we prefer to speak to both parties at once, on a conference call, in order to preserve the neutrality of the mediator. Please call us at (425) 455-0633.

How do I schedule a mediation?

You can schedule a mediation by calling us directly. We find it is most efficient to involve the other party in a three-way call to work out the best time to schedule the session. We will be happy to set up the conference call. If a conference call with the other party is not an option, then the mediator will speak to each party separately for scheduling purposes only.

What happens after I schedule the mediation?

After you have scheduled your mediation session, we will send you a letter confirming your session time and providing you with a copy of the fee policies

and mediation agreement. We will also remind you of the timeline to submit any materials you wish the mediator to review prior to the session. We will also remind you that your materials must be sent to the other party, and that, prior to the session, you may not speak to the mediator about the case (other than scheduling details) unless the other party is involved in the conference.

What kind of materials should I submit to the mediator?

You are not required to submit any materials to the mediator in advance of the session. However, if you would like to provide the mediator with background or case details in advance, the mediator will review your materials in preparation for the session. Examples of materials sometimes submitted include the following:

- Mediation brief (one party's summary of the case, and the reasons for that party's position)
- Chronology of events
- Lists of damages or expenses
- Relevant court documents
- Contracts
- Property deeds, title policies, purchase and sale agreements, etc.
- Photographs
- Bills and invoices
- Accountings
- Correspondence (letters, emails, faxes, etc.)

What happens at the mediation session itself?

There is no such thing as a typical mediation. Each session has its own dynamics. However, many mediations include some of the following elements:

- Mediator opening statement
- Party opening statements
- Response to party opening statements
- Creation of a list of issues to be resolved
- Prioritization of issue list

- Direct negotiation, discussion
- Private meetings with mediator (on an equal time basis)
- Writing an agreement

Will I be in the same room with the other party?

We encourage parties to work as directly with the other party as possible, which means being in the same room. However, there are parties who are simply not comfortable with this process; and there are situations where it makes sense for the mediator to speak to the parties separately. If the mediator has private meetings with the parties, each party will have roughly equal time to meet with the mediator. Also, if you share information with the mediator in a private meeting, the mediator may not share that information with the other party without your permission.

What if I do not reach an agreement with the other party?

You can schedule as many sessions as are necessary to reach full agreement with the other party, as long as the other party is still willing to mediate the dispute. Parties are sometimes able to come to partial agreements or understandings, or to reach agreement on certain specific aspects of a dispute—even if a full agreement on all issues is not achieved.

What happens if I do reach full agreement with the other party?

Congratulations! You may have saved yourself many thousands of dollars in attorney fees and court costs. Plus, you now have an agreement that both parties entered into voluntarily and are much more likely to keep. You've also very likely saved yourself much stress and time.

The agreements we help to draft are meant to be binding and enforceable, and can be introduced in a court of law as evidence. More importantly, however, the agreement is intended to clarify and decide all issues between you and the other party, so that each party understands what is expected of him or her.