

The Mediation Process

Mediation is a voluntary problem-solving process. In mediation, the parties work together using the help of a neutral third party, called a “mediator,” to try to reach a mutually satisfactory solution to their dispute. The decision-making power in mediation rests with the parties. The mediator is not a judge, does not take sides in the dispute, and does not tell the parties what to do. The mediator is trained to help the parties communicate with one another in order to generate possible solutions. Mediation works as a problem-solving process because the parties participate voluntarily and in good faith. Any of the parties, even the mediator, may withdraw from the mediation at any time and for any reason.

In mediation the parties discuss and explore ways that they might reach a solution. Because the mediation process works best when there is open and honest communication, the parties and the mediator are required to keep confidential all discussions and all information that is revealed in mediation sessions. Any notes taken during mediation are destroyed at its conclusion and the parties must agree not to subpoena the mediator to testify for either party in any matter related to the mediation. The parties must also agree not to subpoena or use as evidence in any future proceeding any documents, other than a final agreement signed by all parties, created by anyone during mediation sessions.

When the parties agree on a solution in mediation, they may decide to put it in writing which, when signed, can become a binding contract. Aside from this final written agreement signed by all parties, no one is bound by anything said or done during mediation. If the parties do not reach agreement in mediation, they are free to take any other appropriate measures available to them.