

## MEDIATION PROCESS STEPS

- STEP 1** Employee files a grievance with the agency of employment.
- STEP 2** Agency coordinator will provide the following two forms to the grievant:
- Information About the Mediation Process
  - Tips for Successful Mediation Participation
- STEP 3** Agency designates a management representative to serve as the respondent for the mediation. The agency coordinator will provide the following three forms to the respondent:
- Information About the Mediation Process
  - Tips for Successful Mediation Participation
  - Tips for the Respondent in Preparing to Mediate
- STEP 4** Agency coordinator submits the mediation request by completing the first page of the Mediator Assignment Form via DocuSign within **three business days** of receipt of the grievance.
- STEP 5** OSHR coordinator identifies and contacts available mediators.
- STEP 6** OSHR coordinator completes the second page of the Mediator Assignment Form and emails the assigned mediators and agency coordinator.
- STEP 7** Agency coordinator provides the names of the mediators to the grievant and respondent to rule out any potential conflict of interest.
- STEP 8** Mediators coordinate schedules and provide two or three dates of availability to the agency coordinator within **three business days** of receiving the mediation assignment.
- STEP 9** Agency coordinator will select one of the provided dates and will secure a suitable location for the mediation. Two rooms that offer privacy should be reserved for the mediation.
- STEP 10** Agency coordinator will complete the Mediation Confirmation Form via DocuSign within **three business days** of receiving dates from the mediators. The form will provide the mediators with the information for the scheduled mediation, including the date, time and location. The agency coordinator is also responsible for notifying the grievant and the respondent of the date, time and location of the mediation.
- STEP 11** Agency will arrange for appropriate personnel (e.g. HR staff, legal counsel) to be available during the mediation should the respondent need consultation.

**STEP 12** On the day of the mediation, the mediators are responsible for distributing the mediation forms as follows:

- Agreement to Mediate – Original to agency coordinator, copy to each party, and a copy to OSHR
- Memorandum of Agreement – Original to agency coordinator, copy to each party, and a copy to OSHR

**Or**

- Notice of Mediation Impasse – Original to agency coordinator, copy to each party, and a copy to OSHR
- Grievant and Respondent Mediation Questionnaires – Original to OSHR
- Mediation Information Cover Sheet – Original to OSHR

Mediators may choose to provide the original documents of the Agreement to Mediate and the Memorandum of Agreement or Notice of Mediation Impasse to the agency coordinator with copies sent to OSHR **or** may choose to provide the original documents to OSHR to deliver to the agency coordinator.

**STEP 13** When mediation does not result in an agreement, the agency shall inform the grievant of the right to proceed to Step 2 of the grievance process. The Step 2 filing form must be submitted within **5 calendar days** of the mediation date.

#### **NOTES REGARDING THE MEDIATION PROCESS**

- The agency coordinator and OSHR coordinator should be notified of any problems or complications that may arise out of the mediation.
  - Should the grievant not attend the mediation, the OSHR coordinator should be notified. The mediators should wait up to 30 minutes before the mediation is considered cancelled.
  - Should the respondent not attend the mediation, the agency coordinator and OSHR coordinator should be notified immediately. The mediators should wait for instruction on how to proceed.
- If an agreement is reached, the agreement shall be binding, subject to the approval of OSHR and/or any other state agency whose approval is necessary to implement the agreement, and provided the agreement does not contain any provision contrary to State Human Resources Commission policies or rules, or applicable state or federal law.
- The approval of the Director of OSHR is required for mediation agreements that need a personnel transaction to be processed, except where the only personnel action is the substitution of resignation for dismissal. If a mediation agreement involves an exception to State Human Resources Commission policy, the approval of the Director of OSHR is required.
- When mediation resolves a grievance but it is determined upon agency or OSHR review that one or more provisions of the Mediation Agreement do not comply with the State Human Resources Commission policies or rules or applicable State or Federal laws, the mediation shall be reconvened to resolve the specific issue(s). If the parties are unable to resolve the noncompliance issue(s), the mediation will impasse and the grievant may proceed to Step 2 of the internal grievance process.