

An Overview of the Mediation Process

Mediation is a voluntary, confidential, problem-solving process that promotes respectful and constructive communication for managing conflict between two or more individuals. Mediation helps the parties define the issues and provides structure and guidance to a discussion of conflict/disputes. Mediation seeks to re-establish communication, promote reconciliation, enable parties to find common ground, and produce the best possible settlement and understanding among the parties. Mediators are generally neutral and do not “decide” cases, but assist parties in reaching a mutually acceptable agreement. Mediation is a voluntary process. Parties are free to withdraw at any time.

- Mediation offers a relatively low-risk way to involve parties in creating their own solution to the disputes.
- Parties will generally leave mediation no worse, and hopefully better off, than prior to mediation.
- It typically costs less to repair strained faculty relationships than to recruit and select replacements.
- Unlike arbitration or grievance, an outside party never imposes a solution.
- Mediation is a proven way to
 - de-escalate conflict,
 - aid in communication and mutual understanding,
 - maintain privacy and informality,
 - reduce time and expense, and
 - support a work-effective environment for everyone.

The Mediation Process at USU

A faculty member, with a dispute or conflict, contacts Faculty Mediation Services (see below for contact information) to discuss whether mediation is appropriate and desirable. If mediation is requested, a faculty mediation services representative from the Human Resources Office will: screen requests for mediation; identify and contact all parties who need to be involved in the mediation; educate participants about the mediation process; obtain an agreement to mediate from all relevant parties; contact the Chair of the Board of Mediators to appoint a mediator from the Board to mediate the case; and coordinate a time and place for the initial mediation session.

The assigned mediator typically meets with the parties involved, as a group, to identify and clarify the conflict or dispute. The caucus method of mediation (see below for description) may be used if necessary.

Mediation meetings, typically, last two hours. Meetings may last longer or shorter depending on the time available and the conflict/dispute at hand. The mediator will work with a schedule amenable to all parties.

Consecutive mediation meetings may be held until the involved parties can reach an agreement. In all cases, the parties are expected to participate in good faith to identify

concerns and thoughtfully consider proposed resolutions. If resolution is reached, an agreement will be made between both parties. In the cases where an agreement cannot be reached, by the discretion of the mediator and agreement by the parties involved, mediation will terminate.

Reaching Agreement

If the parties reach agreement, the mediators will help them create a written agreement listing the specifics of the agreement, which the parties sign. Such agreements may not alter existing university policies or community, state, or federal laws. If agreed upon by both parties, a written agreement can be waived or may not be required.

Mediation helps approximately 50% of the parties who enter a mediation process to reach an agreement. In most cases, the parties are able to move forward in their relationship and past the conflict in a constructive, mutually agreeable manner.

Advantages of Mediation

- Disputes can be dealt with promptly.
- Provides an opportunity to address the situation before it escalates, or problems become entrenched.
- Provides win-win rather than win-lose situations (moves away from blame or judgments).
- Participants control the outcome, rather than an arbitrator or judge.
- Provides a better outcome in terms of satisfaction and agreements.
- Improves relationships between disputing parties.
- Creates a forum where disputes and issues can be heard by both parties and by an unbiased third party individual.
- Allows individual participants to have direct input in the construction of a mutually agreeable outcome.
- Provides an opportunity to address and resolve the dispute or conflict without filing a formal grievance.

Mediation and the Formal Grievance Process

Using mediation is encouraged as an alternative to use of more formal grievance processes. You do not give up your right to use the grievance process should you elect to use mediation and are not able to reach a satisfactory outcome using this process.

Enforcement of Mediation Agreements

The agreement is as good as the parties themselves. By reaching their own agreement to the dispute, the parties are more likely to adhere to the agreement. There is no "authority" other than good faith and good intention to "enforce" the agreement.

Confidentiality

Confidentiality is essential to the success of mediation and therefore must be preserved to the maximum extent possible. The mediator(s) and the parties agree not to voluntarily discuss the contents of the session or the process of mediation with others without the express consent of all parties. However, mediators are required by state and federal law to disclose/report information on child abuse, abuse of an elderly or incapacitated person, threats of physical violence, or computer crimes. In these cases, confidentiality cannot be upheld.

Confidentiality during Administrative or Judicial Proceedings

In the Confidentiality Agreement, signed by both parties prior to mediation, all parties agree not to call the mediator(s) as a witness in any administrative or judicial proceedings.

University Records

Request for mediation or records of mediation are not/nor will not become part of your human resources/personnel file. It is a separate service provided to faculty as an alternative to the grievance process. A mediation services representative, positioned within the Human Resources Office, is a point of contact and provides support to the mediation process but all mediation records are maintained separately.

Follow-Up after Agreement

The mediator can contact the parties to assess the implementation of the agreement. Follow-up sessions can be scheduled as needed. Also, the parties may request additional assistance from Faculty Mediation Services as needed.

Mediators

One mediator typically facilitates mediations but two mediators may be requested or needed. USU faculty and staff, representing diverse backgrounds and experiences, have received over 35 hours of mediation training and provide a wealth of perspectives and strengths. These trained faculty and staff make up the Utah State University Board of Mediators. Mediators are chosen from this board.

Methods of Mediation

Group

Mediation typically brings disputing parties together to identify the details of the dispute or conflict and the root causes. In a group situation, each person will be given time to express their perspective on the dispute.

Caucus

During group mediation sessions, there might be a period when a party will want to speak with the mediator individually. The participating parties or the mediator can initiate this. These private sessions are part of mediation.

Codes of Conduct

Mediators and all parties involved will be asked to adhere to a standard code of conduct in a signed Agreement to Mediate. These codes of conduct are to enhance the chances of success in mediation and to agree that no undue physical or emotional harm will take place.

Faculty Mediation Services at Utah State University

Sarah Phillips Mediation Services Representative 435-797-0735

Utah State University Board of Faculty Mediators and Their Respective Colleges

Steve Allan	College of Science
James Barnhill	Cooperative Extension / Continuing Education
Ward Belliston	College of Engineering
David Dickinson	College of Business
Chris Fawson	College of Business
Anne Hedrich	College of Natural Resources
Rob Morrison	University Libraries
Terry Peak	Humanities, Arts and Social Sciences
Kathy Piercy	College of Education and Human Services
Gary Straquadine	Vice Provost for Academic and Faculty Services
Ralph Whitesides	College of Agriculture