

## USU Faculty Mediation Services

*The mediation structure outlined below is proposed as a pilot faculty-led initiative with support from the Office of the Provost and the deans of all the academic colleges and University Extension/Continuing Education.*

**Statement of Purpose.** The mediation service provided under this program reflects a broad-based desire to enhance the collegial atmosphere at Utah State University. By providing access to an informal dispute resolution process that is not burdened by the complexity of filing a formal grievance we hope to increase faculty productivity and enhance faculty satisfaction with their work environment.

**Mediation.** The mediation process is a voluntary alternative to the formal grievance processes available to faculty at USU. No party is obligated to attempt or participate in mediation. Request for mediation may be filed at anytime.

**Grievance Policy.** This service is intended to complement, but not replace, existing University grievance procedures (USU Policy 407.6). Participation in mediation does not preclude the possibility of future grievance proceedings. Unless otherwise authorized by the applicable grievance procedure, mediation shall not delay the filing deadlines for pursuing a grievance.

**Selection of Mediators.** The Vice Provost for Academic Affairs will solicit nominations for college mediators from faculty and department heads by asking them to identify those individuals they believe are generally patient and objective listeners and who appear to have some skill at assisting others in solving problems. After receiving nominations, the Vice Provost for Academic Affairs, in consultation with the Provost and Deans, will select a mediator from each academic college, USU libraries and University Extension/Continuing Education and extend an invitation to serve. A fairly high level of commitment and willingness by the mediators to serve in this capacity will be extremely important to the success of the mediation process. The Office of the Provost will have responsibility for ensuring that each selected mediator has an opportunity to participate in a mediation-training program. Mediators will be asked to serve a two-year term. (Initial appointments will be staggered so that half of the original mediators will be asked to serve a three-year appointment.) Appointment as a college mediator will count toward the service requirement of faculty role assignments.

**Board of Mediators.** The Vice Provost for Academic Affairs and all college mediators will constitute a Board of Mediators at Utah State University. The Vice Provost for Academic Affairs will chair the board and the Office of the Provost will provide administrative support to the Board. The Board will convene twice each semester to discuss on-going mediation activities and the process for distributing the mediation caseload across board membership. New mediators will be selected, appointed, and trained with sufficient lead-time to maintain consistency and stability in the activities of the Board of Mediators. Confidentiality regarding the specifics of the mediation cases will be upheld as outlined in the mediation confidentiality section.

**Accountability Report.** The Board of Mediators will submit an annual report to the President that identifies the number of mediation sessions, by college, and the number of hours expended in mediation activities for the year. The Vice Provost for Academic Affairs has primary responsibility for preparing the annual report. The report will be submitted to the President no later than 31 May of each year. Confidentiality regarding the specifics of the mediation cases will be upheld as outlined in the mediation confidentiality section.

**Confidentiality.** The mediator(s) will not voluntarily reveal anything discussed in mediation without the permission of both parties. The mediation process is also confidential. However, a mediator is legally required to report certain matters, such as incidents of child abuse, abuse of an elderly or incapacitated person, threats of physical violence, and computer crimes. Confidentiality does not extend to these matters.

Any rights the parties involved in mediation have to call the mediator(s) as a witness in any legal or administrative proceeding concerning the dispute are waived with the execution of the Agreement to Mediate & Confidentiality Agreement. Parties involved also waive the right to subpoena or demand the production of any records, notes, work product or the like of the mediator in any legal or administrative proceeding concerning disputes. Should the parties attempt to subpoena or demand these works from the mediator(s), the mediator(s) will move to quash the subpoena. In such action, reimbursement for legal expenses will be sought from the parties.

Mediators generally are permitted to disclose some anonymous but otherwise confidential information about the mediation process for programmatic, statistical, evaluative, and training purposes as a necessary part of their duties as a member of the Board of Mediators and for purposes outlined in the Accountability Report.

**Standard Code of Conduct for Mediators.**

- A mediator shall recognize that mediation is based on the principle of self-determination by the parties.
- A mediator shall conduct mediation in an impartial manner.
- A mediator shall disclose all actual and potential conflicts of interest reasonably known to the mediator. After disclosure, the mediator shall decline to mediate unless all parties choose to retain the mediator. The need to protect against conflicts of interest also governs conduct that occurs during and after the mediation.
- A mediator shall maintain the reasonable expectations of the parties with regard to confidentiality.
- A mediator shall conduct mediations fairly, diligently, and in a manner consistent with the principle of self-determination by the parties.

## **USU Faculty Mediation Services Process and Procedures**

**Mediation Screening:** Faculty seeking mediation will contact USU Faculty Mediation Services in the Office of Human Resources, 435-797-1810. The office is located in the Military Sciences Building, on the main campus of USU. A mediation services representative will be assigned from the Human Resources office to screen faculty requests for mediation. Appropriateness of the dispute for mediation will be evaluated and the objectives and process of mediation will be explained by the mediation services representative. At this time, only requests initiated by faculty qualify for faculty mediation services under this pilot program. If after consultation with the mediation services representative the initiating party feels that mediation provides an appropriate context for dispute resolution the initiating party will be requested to fill out a Formal Request for Mediation Form.

Within ten (10) business days of receipt of a formal request for mediation submitted to the USU faculty mediation services representative, the following will occur:

The mediation services representative will contact all parties to be involved in mediation separately to:

1. Explain the mediation process,
2. Secure an agreement to mediate by both parties,
3. Send Agreement to Mediate & Confidentiality Form to each party, at least one week prior to the first scheduled mediation date,
4. Schedule the first mediation meeting with all parties and the assigned mediator, and send a Mediation Notification Form.

All parties must jointly agree to meeting dates, extensions, and deadline changes.

**Mediation Assignment:** The Board of Mediators will assign a primary mediator to the case. Cases will be assigned to a mediator 1) not in the college of the involved parties and 2) who does not have any personal relationship with the involved parties. In the case where an assigned mediator declines because of conflict of interest the Chair of the Board of Mediators has responsibility to assign an acceptable replacement from the Board.

**Mediation Sessions:** Mediation meetings between the involved parties and the mediator(s) will be held until an agreement is reached or until it is determined that mediation will not bring about an agreement. Mediators may take notes to facilitate their ability to mediate. All notes should be destroyed upon the conclusion of the mediation. The initial mediation meeting will be arranged by the mediation services representative. Subsequent mediation meetings are arranged by the mediator(s) with the concurrence of the parties to the mediation.

At the conclusion of each mediation case, mediators are responsible for submitting three forms of record keeping to the mediation services representative:

1. Agreement to Mediate & Confidentiality Agreement – this agreement is distributed to the parties at the time of notification to mediate. All parties must sign the form, prior to engaging in the first mediation session.
2. Mediation Resolution Agreement
3. Mediation Report

***Confidentiality:*** **Confidentiality will be discussed at the beginning of each mediation session and the Agreement to Mediate & Confidentiality Form MUST be executed before the initial mediation session can take place.** Mediators shall provide for confidentiality of the process and content, and confidentiality of the mediation documents to the extent permitted by law or USU University policy.

***Resolution Agreement:*** If mediation results in an agreed upon resolution, an agreement will be drafted and signed by each party. Each party shall receive a copy of the resolution agreement. The agreement will outline in detail the actions, dates and other pertinent information required regarding the resolution and implementation of the resolution. The parties, by mutual consent, will determine who else will receive copies of the agreement. The parties who generated or received the documents, unless otherwise agreed to by the parties in writing, will retain documents generated during the mediation process.

***Mediator Withdrawal/Mediation Termination:*** At any time during the process, any party may withdraw and mediation for the case will end. A mediator may withdraw from a case at anytime during the mediation if:

1. It becomes evident to the mediator that the parties cannot reach an agreement,
2. Or, a mediator believes a conflict of interest has arisen and can no longer mediate the case without bias.

Withdrawal from a case, by a mediator, must be discussed and agreed upon by the parties involved. In the case of mediator withdrawal the Chair of the Board of Mediators must be notified and has responsibility to either assign a new mediator or close the case. In the case where agreement was not reached and the parties believe that another attempt at mediation with a different mediator may result in a successful mediation, the parties may jointly request a new mediation process by requesting that the Chair of Board of Mediators appoint a different mediator.

***Mediation Services Evaluation:*** Evaluations of the effectiveness of mediation will take place one month and six months after the conclusion of each mediation case. A Mediation Services Evaluation Form will be sent out to the participating parties. The parties have the option to provide feedback or not. These evaluation forms will be sent out and returned to the mediation services representative in the Human Resources office. Summative results of the evaluations will be sent to the Chair of the Board of Mediators for inclusion in the annual report.

***Record Keeping & Forms:*** It is important that a record be kept that mediation was requested and when it occurred. Each form and a brief description are listed below. Forms can be obtained from the mediation services representative in the Human Resources office or on-line at the Vice Provost for Academic Affairs web page (URL TBD).

1. Formal Request for Mediation Form – this form, provided by Faculty Mediation Services, records the formal request for mediation, date of request, and potential parties to be involved.
2. Mediation Notification Form - this form, provided by Faculty Mediation Services, identifies the parties that have agreed to participate in the mediation session, the scheduled date, time, and place for the first mediation session.
3. Agreement To Mediate & Confidentiality Agreement – this agreement, provided by Faculty Mediation Services and executed by the mediator(s), is a signed contract stating each party’s agreement to participate in mediation and abide by the rules of conduct. Agreement MUST be signed by all participating parties prior to initial mediation session.
4. Mediation Resolution Agreement – this agreement, used by the mediator after a mediation session has concluded, details the plan or resolution that the parties to mediation agree to implement.
5. Mediation Report – this report, used by the mediator after a mediation session has concluded, maintains brief notes regarding techniques, skills, and processes that worked or did not work during the mediation session.
6. Mediation Services Evaluation Form – this form, distributed by the mediation services representative 1 month and again, after 6 months, after the conclusion of a mediation case. The form attempts to gain feedback on the effectiveness of the mediation services provided.