Mediation and Human Rights Complaints

What is mediation?

Mediation is a voluntary process of discussion and negotiation by the parties in a complaint, with the help of a trained, impartial mediator. The discussions in mediation are confidential and without prejudice to any further steps the parties may take. As well, participating in mediation does not mean that anyone is automatically accepting liability for the complaint.

What are the advantages of mediation?

Mediation allows parties to get a better understanding of each other’s positions. It often helps them improve communications and reach cooperative solutions which can lead to better relations in the future. Mediation is flexible, permitting parties to deal not only with the issues but with what may have caused them. Mediators can help parties to craft creative solutions. Mediating a dispute as soon as possible can help parties avoid delays and enable them to reach a speedy resolution.

How does mediation work?

If they choose mediation, the parties will:

• speak with a trained, impartial mediator about the complaint and the possibilities for resolution;
• decide whether to meet in the same room or make other arrangements that are acceptable to all;
• participate in a mediation session with the mediator.

Mediators work for the Commission. They have training and experience in mediation and human rights issues. In carrying out their duties, mediators:

• discuss the ground rules for mediation with the parties, the location of negotiations and other related matters;
• guide discussions impartially and provide information on the advantages and disadvantages of options for resolving the dispute;
• bring the “public interest” to the attention of the parties—that is, point out what is appropriate from a human rights perspective;
• provide information on the Canadian Human Rights Act, Commission policy and legal precedents;
• help parties, if they choose, to reach a formal settlement that includes the public interest.

Mediators do not provide information to investigators or lawyers. And they have no authority to make decisions.

What is “the public interest” in human rights?

The Commission’s work involves eliminating and preventing discrimination. All resolutions reached during mediation must be consistent with this fundamental goal. For example, where a complaint alleges that a discriminatory policy may also affect others, the Commission will ensure that any settlement of the complaint also corrects the policy.

What might a settlement include?

The purpose of the Canadian Human Rights Act is not to punish people but to resolve human rights problems and prevent them from happening again. If parties jointly decide on reaching a settlement, they may choose from a broad range of solutions. These might include apologies, training, lost wages, reinstatement in a position or financial compensation. If the complaint involves a discriminatory policy, the settlement should include changing the policy or putting new procedures in place.

What happens when parties reach a settlement

The mediator helps parties prepare a written agreement which describes what each party agrees to do to resolve the matter. The signed agreement is submitted to the Commission for review to ensure it is fair and in the public interest. Normally, the Commission will approve settlements in a matter of days. The Commission monitors settlements and, if required, can enforce them through the courts.

What happens if there is no settlement

If there is no settlement, the mediation process ends and the complaint proceeds to investigation. After investigation, the Commission will decide whether to continue the complaint or refer it to the Canadian Human Rights Tribunal for hearings.

For further information concerning mediation, please contact:

Commission regional offices in Halifax, Montréal, Toronto, Winnipeg, Edmonton and Vancouver, toll-free 1-800-999-6899 (addresses available on the Commission’s website); or

National office at 344 Slater Street, 8th floor, Ottawa, Ontario K1A 1E1.


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