

What to Expect at Mediation

Mediation is a structured process where a neutral third party (the mediator) helps people in a dispute try to reach a voluntary agreement. Unlike a judge or arbitrator, the mediator does not decide who wins or impose a solution.

Here's what a typical mediation looks like:

1. Before the Mediation

- Both sides agree (or are ordered by a court) to participate.
- The mediator may ask each side to submit a confidential summary of the dispute.
- You gather any documents, evidence, or notes you want to reference.
- If you have an attorney, you'll usually discuss your goals, acceptable settlement range, and strategy beforehand.

2. Arrival and Introductions

- Everyone meets at the mediation location (or joins a virtual meeting).
- The mediator explains:
 - Their neutral role.
 - The ground rules.
 - Confidentiality.
 - That participation is voluntary in most cases and any agreement must be mutual.

3. Opening Statements

Each side has an opportunity to explain:

- Their perspective.
- What happened.
- How the dispute has affected them.
- What they hope to achieve.

This is usually uninterrupted so everyone has a chance to be heard.

4. Discussion of the Issues

The mediator helps identify:

- Areas where both sides agree.
- The main points of disagreement.

- Underlying interests or concerns, not just legal positions.

The mediator may ask questions to clarify facts or priorities.

5. Private Meetings (Caucuses)

Often, the mediator meets with each side separately.

During these private sessions:

- You can speak candidly.
- The mediator keeps your discussions confidential unless you authorize them to share specific information.
- The mediator may:
 - Discuss strengths and weaknesses of your case.
 - Explore settlement options.
 - Help you evaluate risks if the case continues.

The mediator usually moves back and forth between the parties throughout the day.

6. Negotiation

Settlement offers are exchanged.

The mediator helps:

- Clarify misunderstandings.
- Generate possible solutions.
- Explore compromises.
- Keep negotiations productive.

It's common for offers to go through several rounds before an agreement is reached.

7. Reaching an Agreement (or Not)

If both sides agree:

- The terms are put into writing.
- Everyone reviews the agreement carefully.
- The parties (and often their attorneys) sign it.
- Depending on the case, the agreement may become legally enforceable or be filed with the court.

If no agreement is reached:

- The mediation ends without settlement.

- The case generally continues through litigation or another dispute-resolution process.
- Discussions during mediation are typically confidential and generally cannot be used later in court, subject to applicable law and any exceptions.

How Long Does Mediation Take?

It depends on the complexity of the dispute:

- Simple disputes: 2–4 hours.
- Most civil or family cases: Half-day to full-day.
- Complex business or multi-party cases: Multiple sessions over several days or weeks.

Tips for a Successful Mediation

- Come prepared with the facts and any relevant documents.
- Know your goals and what you're willing to compromise on.
- Listen carefully to the other side.
- Ask questions if you don't understand a proposal.
- Take your time before signing an agreement.
- Stay focused on resolving the dispute rather than proving who is right.

Many people are surprised that mediation involves much less courtroom-style argument than expected. Much of the process consists of private conversations with the mediator and gradual negotiation aimed at finding a solution both sides can accept.

