



U.S. OFFICE OF SPECIAL COUNSEL

Fact Sheet

How OSC's Mediation Program Works

The U.S. Office of Special Counsel (OSC) offers mediation by its Alternative Dispute Resolution (ADR) Unit in select complaints alleging a prohibited personnel practice or other prohibited activity.

What is Mediation?

- Mediation is a dispute resolution process that provides an alternative avenue for resolving OSC complaints. It is an informal process in which a neutral third party – the mediator – assists the parties in reaching a voluntary, negotiated resolution of the complaint.
- Mediation provides the parties with a guided forum within which to understand each other's needs and concerns and explore creative options for settlement beyond the formal remedies OSC can obtain through litigation. Many parties choose mediation because it can take less time to complete than an investigation, it often results in favorable outcomes, and it allows parties to repair or strengthen important working relationships.

Mediation is Voluntary and Confidential

- Participation in mediation is *completely voluntary*. If either party declines mediation, the complaint will proceed with the investigation.
- All information gathered during mediation is *completely confidential*. The ADR Unit is separate and independent from the Complaints Examining Unit (CEU) and the Investigation and Prosecution Division (IPD), and does not share information with those offices.

Mediation Process

- In most instances, the ADR Unit reviews complaints to determine whether they are appropriate for mediation after CEU has referred them for investigation, but before any investigation has occurred. See *Fact Sheet on How Complaints are Received and Processed*. In some cases, however, IPD may refer complaints to mediation during the investigation. See *Fact Sheet on How Complaints are Investigated and Prosecuted*.
- Once the ADR Unit determines that mediation is appropriate, it offers the parties the opportunity to mediate the case. If both parties agree to mediation, OSC will assign a mediator (or two co-mediators) to the case. The mediator then arranges a mutually agreeable time and location for the mediation.
- Mediation sessions occur in person, by videoconference, or by telephone with mediators who have backgrounds in mediation and personnel law. During mediation, each party has the opportunity to explain its understanding of the events that transpired and its perspectives on how the matter can be resolved. The mediator assists the parties in this process, uncovering areas of agreement and exploring creative options to resolve the complaint. The mediator also can arrange for an OSC subject matter expert to help parties better understand their alternatives to settlement. If both parties agree to settlement terms, the agreement is put into writing. If settlement is not reached, the complaint will proceed with the investigation.
- For more information about OSC's mediation process, see *Frequently Asked Questions* available on www.osc.gov.