

# STATE OF NORTH CAROLINA

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## INFORMATION ABOUT THE MEDIATION PROCESS

### **Mediation Process**

Mediation is the first step in the grievance process. It is the process where a grievant and an agency representative, the respondent, use the assistance of a neutral third party to explore options for a mutually acceptable resolution of a grievance. The focus is on reaching agreement based on each party's interest rather than making a decision as to who is right or wrong. The expectation is that the parties will enter into mediation in good faith with the goal of reaching an agreement. If, however, an agreement cannot be reached to the satisfaction of both parties, the grievant has the right to proceed to Step 2 of the grievance process.

### **Mediator's Role**

A mediator serves as the neutral third party whose role is to guide the mediation process, facilitate communication, and to help the parties generate and evaluate possible outcomes. A mediator does not act as a judge, give advice, express an opinion on who is right or wrong, and does not render decisions. At times the mediator may meet separately with the participants during the mediation to further the communicate process.

### **Participant's Role**

The grievant and the respondent should come to mediation prepared to tell their version of what happened, prepared to listen to the views of the other side, prepared to clearly state their requirements for resolving the grievance, and to be willing to negotiate a settlement agreement that will be mutually satisfying for both sides, if possible.

### **Who Attends**

Mediation is a formal part of the grievance process; therefore, only the grievant and the respondent can attend the mediation. Representatives, advisors and attorneys are not permitted to attend.

### **Time Expectations**

There is no time limit on the length of the mediation process; however, sessions typically last three to eight hours. The time spent in the mediation is governed by the complexity of the issues and the participants' commitment to reach a mutually satisfactory resolution. The mediation session will be scheduled early in the morning in the event the entire day is needed. If the parties are close to reaching agreement, mediation may be reconvened for another date for the additional time needed.

### **Consultation During the Mediation Process**

The grievant and the respondent will have the option to request a recess at any time during the mediation in order to obtain legal advise or consult with anyone they feel would be helpful as alternatives for resolution are discussed and to review the mediation agreement. It is vital that both the grievant and the respondent make prior arrangements with those individuals to be available for consultation during the scheduled mediation. Both parties may have their legal counsel or other advisors review the mediation agreement during the mediation if desired. Due to time constraints, recesses will be limited to no more than 15 minutes.

### **Confidentiality**

The mediation process is considered confidential with only information shared that is needed to effectuate reaching and processing a mediation agreement. Both parties are asked to respect the confidentiality of the process by not disclosing information that is discussed in the course of the mediation session. If an agreement is reached, the mediation agreement becomes a public record under NC State law. Other exceptions to confidentiality are: reports of abuse, threats of physical harm to self or others, and threats to cause significant damage to real or personal property.