



# City of Albuquerque Employee Mediation Program Guidelines

## I. **Applicability:**

- A. The Employee Mediation Program is available to all City of Albuquerque employees.
- B. These guidelines apply to all City of Albuquerque employees.
- C. The Alternative Dispute Resolution Division of the City of Albuquerque may modify these Guidelines as required.

## II. **Definitions:**

### A. Alternative Dispute Resolution (ADR):

The broad spectrum of techniques available for resolving disputes outside the traditional administrative or judicial decision-making processes.

### B. Employee Mediation Program (EMP):

A mediation program administered by the City of Albuquerque Legal Department's ADR Division for the resolution of workplace issues involving City of Albuquerque employees. Program areas include: General Employee Mediation, Disciplinary Action Mediation, and Grievance Resolution Mediation.

***General Mediation:*** an opportunity to discuss issues affecting the workplace environment, methods to resolve workplace issues, and constructive communication in the future.

***Disciplinary Action Mediation:*** an opportunity prior to, during, and immediately following disciplinary action to clarify the reasons for contemplating discipline, reach agreement on what happened and what should follow, or potentially resolve the disciplinary action, or define mutually agreeable terms for resolving workplace issues.

***Grievance Resolution Mediation:*** an opportunity within the grievance process to clarify the reasons for contemplating a formal grievance, reach an agreement on what happened and what should follow, and define mutually agreeable terms for grievance resolution.

### C. Employee:

An individual employed, in either a supervisory or non-supervisory capacity, by the City of Albuquerque.

### D. Mediation:

A process in which a mediator: (1) facilitates communication and negotiation between mediation parties to assist them in reaching an agreement regarding their dispute; or (2) promotes reconciliation, settlement or understanding between and among mediation parties.

Participants in mediation focus on creating positive solutions to improve their working relationship and their workplace environment.



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### E. Mediator:

An individual who: 1) holds himself or herself out as a mediator and who conducts a mediation; 2) the mediation parties agree to use as a mediator and who conducts a mediation; 3) a mediation program designates as a mediator and who conducts a mediation, or 4) is an observer who is permitted by the mediation parties to watch and listen to the mediation for educational or other administrative purposes.

The mediator helps participants overcome communication barriers in order to work toward a mutually acceptable agreement. Participants reach an agreement freely and voluntarily.

The mediator(s) do not serve as decision makers and thus do not determine the outcome of the mediation session. As the "process expert," the mediator(s) helps the participants' converse efficiently and effectively.

### F. Mediation Communication:

A statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing or reconvening a mediation or retaining a mediator.

### G. Mediation Party:

City of Albuquerque employees who participates in a mediation and whose agreement is necessary to resolve the workplace dispute.

### H. Participant Advisors:

Participants may choose, but are not required, to be accompanied by an advisor. A participant is limited to two advisors. Advisors may include a family member, friend, union representative, or lawyer.

The advisor's role is to support the participant in weighing options offered during the mediation process. When a participant deems it necessary to consult with their advisor(s) they shall request a caucus to do so. An advisor who exhibits behavior that undermines the integrity of the mediation process will be asked to sit outside the mediation session. Participants can continue to consult during caucus with any advisor asked to leave the mediation session.

Participants, who choose to have an advisor present, shall inform the ADR Division at least 48 hours before the mediation session. All mediation participants must approve of the advisor(s) presence in the mediation session. If participants do not approve of the advisor(s) presence in the mediation session, the advisor(s) can remain outside the mediation session and speak to participants during caucuses.



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The advisor(s) shall not interrupt a mediation session. The mediator(s) and the ADR Division have the right to exclude advisors who interrupt the mediation session.

- I. Caucus:  
A break in the mediation process where the mediator(s) will speak to participants individually and/or the participants will speak with their advisor(s).
- J. ADR Coordinator:  
An employee of the City of Albuquerque's Legal Department who coordinates the City of Albuquerque's ADR Programs.
- K. Employee Mediation Program Manager:  
An employee of the City of Albuquerque's Legal Department ADR Division who manages the City of Albuquerque's Employee Mediation Program.
- L. Mediation Packet:  
Completed forms that the mediator(s) forward to the Employee Mediation Program Manager upon conclusion of the mediation, which includes the signed Agreement to Mediate and the Mediation Agreement.
- M. Business Days:  
Business days are Monday through Friday, excluding official City of Albuquerque holidays.

### III. Procedures in Providing Mediation Services:

- A. Mediation Referrals:
  - 1. General Employee Mediation:  
Any employee can initiate mediation by contacting the ADR Division by telephone, in writing, email, or in person.
  - 2. Disciplinary Action Mediation:  
After giving the employee the notice of contemplated action, the supervisor contemplating discipline shall forward the ADR Division a copy of the Disciplinary Action notice. An employee can also request mediation by contacting the ADR Division. This referral is required by §3-1-23 of the City of Albuquerque's Merit System Ordinance and Section 902.2 of the City of Albuquerque's Personnel Rules and Regulations.
  - 3. Grievance Resolution Mediation:  
An employee initiates the grievance process by submitting a Grievance Request Form to the ADR Division within ten (10) days of becoming aware of the grievable act. This referral is required by §3-1-24 of the City of Albuquerque's Merit System Ordinance and 903.3 of the City of Albuquerque's Personnel Rules and Regulations. The City Clerk must issue a case number prior to review by the ADR Division.



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### B. Intake/Assessment of Case Eligibility:

The ADR Office will conduct an intake and respond to mediation requests within five (5) business days. Not all cases are appropriate for mediation. Case eligibility will be assessed based upon the circumstances of each individual case.

#### 1. General Employee Mediation:

Intake consists of interviewing the employees to identify mediation participants, assess the appropriateness of mediation, and determine the goals of the mediation.

#### 2. Disciplinary Action Mediation:

Intake consists of interviewing the Department and the employee to evaluate the benefits of using mediation based upon the circumstances of the contemplated action and the appropriateness of mediation.

#### 3. Grievance Resolution Mediation:

Intake consists of reviewing the dispute with the employee and the Department to assess the appropriateness of mediation. Within seven (7) calendar days, the ADR Division will determine, and advise, if mediation of the dispute is appropriate.

#### 4. The ADR Division will evaluate cases for eligibility on a case-by-case basis. Evaluation factors include, but are not limited to:

- a. The safety of a participant,
- b. The nature and severity of the issue,
- c. Prior mediation experience of the participants,
- d. Pending criminal investigations,
- e. The participants' willingness to resolve conflict, and
- f. The relationship of the parties.

### C. Scheduling Mediation Sessions:

1. Within twenty (20) days following intake/assessment, and after determining that mediation is appropriate, the ADR Division will assign mediators and schedule the date, time, and location of the mediation session. All participants must agree to any requested delay.
2. The ADR Division will provide each participant with a copy of "Information About the Mediation Process" and "Tips for Successful Mediation Participation" to ensure that each participant has a basic understanding of the mediation process.
3. The ADR Division will provide written notification of the date, time, and place of the mediation to the mediation participants and the assigned mediator(s). If written notification is not possible, the ADR Division will notify participants by any reasonable means.



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### IV. **Conduct of the Mediation:**

- A. The mediator(s) conduct and control the mediation process. The mediator(s), and the ADR Division, have the right to exclude persons whose behavior undermines the integrity of the mediation process.
- B. The mediation will be held in a location with low potential for distraction.
- C. Whenever possible, the mediation session will have two mediators.
- D. The ADR Division reserves the right to have an observer attend the mediation session, either in a learning capacity or to evaluate the effectiveness of the mediators or the process. Observers are not necessarily interested in the specific content of the mediation and are bound by confidentiality.
- E. Mediator(s) will discuss the Agreement to Mediate with participants and obtain participant signatures prior to beginning a mediation session.
- F. After good faith efforts have been made to mediate, the mediator(s) will honor a decision by participants to conclude the mediation prior to a resolution.
- G. The mediator(s) will document, on the Mediation Agreement, any agreements reached to resolve the participants' workplace issues. The participants will have the opportunity to review and sign the agreement and the mediator(s) will give each participant a copy. Participants may also choose to have a verbal agreement. Any resolution must be in compliance with applicable laws, rules, and procedures.
- H. The mediator(s) will forward the signed Agreement to Mediate, and any written agreement to the ADR Division, within five (5) business days of the final session. These forms comprise the "mediation packet."
- I. The ADR Division will conduct an initial evaluation of the mediation session and a follow up six-month evaluation, with each participant, following the conclusion of the mediation session.

### V. **Mediation Participant Responsibilities:**

- A. Participants will ensure that individuals with authority to make decisions and create an agreement are present or available by phone.
- B. Participants must inform the ADR Division of the names of any advisor(s) who will attend the mediation session at least 48 hours prior to a mediation session.
  1. Each participant is limited to no more than two (2) advisors in the mediation session.
  2. All mediation participants must approve of the advisor(s) in the mediation session.



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3. If participants do not approve of advisor(s) in the mediation session, the advisor(s) can remain outside the mediation session and speak with participants during caucuses.
4. Participants are responsible for informing advisors of mediation session guidelines and details (i.e. date, time, and location of mediation session).

### C. Participants must:

1. Notify the ADR Division of cancellation requests at least 24 hours prior to the mediation session.
2. Provide Participant Contact and Compensation Information to the ADR Division. Compensation information is kept confidential by the ADR Office and is used only to determine the cost effectiveness of the mediation process.
3. Agree to keep mediation communication confidential at the beginning of the mediation session and thereafter.

## VI. Participant Advisor Responsibilities:

- A. Advisor(s) shall arrive at the mediation session prior to the scheduled time. Advisors arriving late to the mediation session shall sit outside the session. Participants will be notified that their advisor has arrived and that the participant can caucus with their advisor at any time during the mediation session upon request.
- B. Advisor(s) are responsible for obtaining mediation session details from participants (i.e. date, time and location of mediation session).
- C. Advisor(s) shall adhere to the Employee Mediation Program Guidelines.
- D. Advisor(s) shall agree to keep mediation communication confidential at the beginning of the session and thereafter.

## VII. ADR Division Responsibilities:

- A. Assess case appropriateness for mediation.
- B. Convene mediation session.
- C. Inform Participants if Advisor(s) have been requested by either party to be present at the mediation session.
- D. Evaluate Employee Mediation Program Guidelines and modify as required.
- E. Safeguard the confidentiality of the information shared during mediation to the greatest extent possible.



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### **VIII. Mediator Responsibilities:**

- A. Accept mediation requests only after reviewing and confirming availability and obtaining supervisor's approval (if applicable).
- B. Accept assignments that allow the mediator to serve impartially, without conflict of interest, and are consistent with the mediator's skill level and competence.
- C. Follow Employee Mediation Program Guidelines.
- D. Mediators shall inform the participants about the role of confidentiality in mediation.
- E. Mediators shall contact the ADR Division for additional guidance on confidentiality.
- F. Complete and return the Mediation Packet to the ADR Division.

### **IX. Confidentiality:**

All mediation communications are confidential, not subject to disclosure and shall not be used as evidence in any judicial or administrative proceeding, as set forth in the Mediation Procedures Act. Chapter 11 NMSA (2007 Supp.)

### **X. Requirements for serving as an ADR Division Workplace Mediator:**

- A. Upon the recommendation of the ADR Division's mediation staff, the ADR Division Coordinator appoints the successful applicant as an ADR Division Workplace Mediator. The ADR Division Coordinator may also remove a mediator if removal is deemed appropriate. The ADR Coordinator maintains sole discretion to assess individual appropriateness for an applicant to serve as an Employee Mediator.
- B. All mediators will have completed at least 32 hours Basic Mediation Training, abide by these Guidelines, and the Model Standards of Conduct for Mediators adopted by the American Arbitration Association, American Bar Association, and Association for Conflict Resolution in September 2005.
- C. Mediators agree to conduct at least one workplace mediation per year, upon request. Mediators should immediately contact the ADR Division if they are unable to fulfill this agreement.
- D. The ADR Division will offer educational opportunities to maximize mediator skills.
- E. The ADR Division will review participant evaluations of the mediator and the mediation process and may make recommendations to mediators as appropriate. ADR Division designees may observe mediations.
- F. The ADR Division will send annual letters of acknowledgement to ADR Division workplace mediators and their supervisors.