

## **MEDIATION RULES**

1. Agreement of Parties Whenever, by stipulation or in their contract, the parties have provided for mediation of existing or future disputes under the auspices of Commonwealth Mediation and Conciliation, Inc. (CMCI) or under these rules, they shall be deemed to have made these rules, as amended and in effect as of the date of the submission of the dispute, a part of their agreement.

2. Initiation of Mediation Any part of parties to a dispute may initiate mediation by filing with CMCI a written request for mediation pursuant to these rules, together with the appropriate administration fee contained in the Fee Schedule. Where there is no submission to mediation or contract providing for mediation, a party may request CMCI to join in a submission to mediation. Upon receipt of such a request CMCI will contact the other parties involved in the dispute and attempt to obtain a submission to mediation.

3. Request for Mediation A request for mediation shall be in a Case Outline, provided by CMCI, which contains a brief statement of the nature of the dispute and the names, addresses and telephone numbers of all parties to the dispute and those that will represent them, if any, in the mediation.

4. Appointment of Mediator Upon receipt of a request for mediation, CMCI will appoint a qualified mediator to serve. Normally, a single mediator will be appointed unless the parties agree otherwise or CMCI determines otherwise. If the agreement of the parties names a mediator or specifies a method of appointing a mediator, that designation of method shall be followed.

5. Qualifications of Mediator Any mediator appointed shall be a member of CMCI's Mediation Panel, with expertise in the area of the dispute and knowledgeable in the mediation process. No person shall serve as a mediator in any dispute in which that person has any financial or person interest in the result of the mediation, except by written consent of all parties. Prior to accepting an appointment, the prospective mediator shall disclose any circumstance likely to create a presumption of bias or prevent a prompt meeting with the parties. Upon receipt of such information, CMCI shall either replace the mediator or immediately communicate the information to the parties for their comments. In the event that the parties disagree as to whether the mediator shall serve, CMCI will appoint another mediator. CMCI is authorized to appoint another mediator if the appointed mediator is unable to serve promptly.

6. Vacancies If any mediator shall become unwilling or unable to serve, CMCI will appoint another mediator, unless the parties agree otherwise.

7. Representation Any party may be represented by persons of the party's choice. The names and addresses of such persons shall be communicated in writing to all parties and to CMCI.

8. Date, Time and Place of Mediation CMCI shall fix the date and time of each mediation session. The mediation session shall be held at CMCI, or at any other convenient location agreeable to the mediator and the parties, as CMCI shall determine.

9. Identification of Matters in Dispute At least ten days prior to the first scheduled mediation session, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, such memoranda may be mutually exchanged by the parties. At the first session, the parties will be expected to produce all information reasonably required for the mediator to understand the issues presented. The mediator may require any party to supplement such information.

10. Authority of Mediator The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided that the parties agree and assume the expense of obtaining such advice. Arrangements for obtaining such advice shall be made by the mediator or the parties, as the mediator shall determine. The mediator is authorized to end the mediation whenever, in the judgment of the mediator further efforts at the mediation would not contribute to a resolution of the dispute between the parties.

11. Privacy Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the mediator.

12. Confidentiality Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by a mediator while serving in such capacity shall be confidential. The mediator shall not be compelled to divulge such records or testify in regard to the mediation in any adversary proceeding or judicial forum. The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding: a. views expressed or suggestions made by another party with respect to a possible settlement of the dispute; b. admissions made by another party in the course of the mediation proceedings; c. proposals made or views expressed by the mediator; or d. the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

13. No Stenographic Record There shall be no stenographic record of mediation process.

14. Termination of Mediation The mediation shall be terminated: a. by the execution of a settlement agreement by the parties; b. by written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or c. by a written declaration of a party or parties to the effect that the mediation proceedings are terminated.

15. Exclusion of Liability Neither CMCI nor any mediator is a necessary party in judicial proceedings relating to the mediation. Neither CMCI nor any mediator shall be liable to any party for any act or omission in connection with any mediation conducted under these rules.

16. Interpretation and Application of Rules The mediator shall interpret and apply these rules insofar as they relate to the mediator's duties and responsibilities. All other rules shall be interpreted and applied by CMCI.

17. Expenses The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator and representatives of CMCI, and the expense of any witness and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise.