

University of Louisville Mediation Procedures

The University of Louisville encourages employees to resolve work-related disputes through open, direct communication in the airing of differences. When direct communication fails but parties in a dispute believe that the differences may be reconciled, the University provides impartial services to facilitate mediation. Mediation is both voluntary and confidential to the limits of the law.

Purpose

The Mediation Service seeks to resolve disagreements outside the formal grievance procedure. The Mediation Service will offer stages of guided intervention, including mediation by an impartial outside party. While the aim of the Mediation Service is to find agreement prior to reaching the level of formal grievance proceedings, university employees retain the right to file a grievance without recourse to the Mediation Service.

Eligibility

The Mediation Service is available to all regular-status employees (i.e., those staff who have successfully completed their provisional employment period); Board appointed faculty; and any other employees of the University whose contract so indicates.

Effective Date

The Mediation Service will be initiated as a voluntary, permanent service to be reviewed not later than two years after its initiation.

Covered Disputes include claims relating to discipline, fair treatment, retaliation, and freedom of speech.

Disputes Not Covered are termination, denial of tenure, non-renewal of contract, unlawful discrimination and harassment, workers' compensation, salary and wages, unemployment benefits, health, welfare, and retirement benefits. Employees involved in a dispute not covered by the mediation policy should contact the Human Resources Affirmative Action/Employee Relations Office.

Not a Condition of Employment

The Mediation Service establishes a procedure for resolving workplace disputes but does not create terms and conditions of employment. Nothing in this process creates a condition of employment, express or implied, for any period of time. The Mediation Service does not replace the formal procedure outlined in the REDBOOK and the University's policies and procedures manual(s), including those online. Rather, it supplements the grievance procedure by resolving workplace disputes informally with informed and prompt solutions that are fair for the employee and for the University. Employees involved in a disagreement, and officers designated by the REDBOOK, including unit or departmental administrators, may refer covered disputes to the Mediation Service for attempted resolution before the time for filing a grievance has elapsed under the staff or faculty grievance procedures, as appropriate. University employees retain the right to file a grievance without recourse to the Mediation Service program.

Relationship to Grievance Process

Employees who seek assistance through the Mediation Service retain full rights to pursue grievance under university policy and may file a grievance at any time during the voluntary mediation process. Filing a grievance ends the mediation process.

Participation in the Mediation Service program suspends the timeline for initiating a grievance (specified in REDBOOK 4.4 and 5.8) until (1) one or more of the disputants have withdrawn from the process, or (2) one of the disputants files a grievance in the case, or (3) the mediator certifies

in writing that the dispute remains unresolved after exhausting the stages of the mediation process. After any one of those eventualities, the disputants have thirty (30) calendar days to initiate a grievance.

Administration of the Program

The Provost shall appoint a coordinator to oversee and manage the service, keep records, and be available to answer questions and facilitate the service as appropriate. The coordinator will review written statements requesting mediation, identify appropriate parties to mediate, schedule meetings, arrange for outside mediation and certify the resolution of the dispute or the withdrawal from the process by any party.

The coordinator shall write an annual report detailing the program's activities. The annual report shall include number of cases requested for mediation, number of total mediations, number of successful and failed mediations, information regarding the communication of the Mediation Service program to the university community as well as other relevant information. The coordinator shall submit the report to the constituency assemblies, the Provost, and the President.

Information regarding the mediation program will be sent to all employees. Policy, procedure and mediation service contact information will be made available on the University's web site. To promote employee awareness and understanding of the Mediation Service, the University from time to time shall contract with outside mediators to conduct information and training sessions for university employees; vice-presidents, deans, directors, chairs and department heads are all required to participate in training.

Process

Because many workplace disputes arise from unintentional miscommunication or misunderstanding, the university encourages employees to attempt to reconcile differences directly and with the least formality possible. If preliminary discussion between disputants is not productive but the disputants believe that the differences may be reconciled, either party may request mediation.

Initiating The Process: To initiate the mediation process, an employee shall file a written statement with the coordinator. The statement shall contain the following:

- A designation of the parties involved.
- A brief narrative of the condition giving rise to the dispute, including facts alleged,
- A statement of the remedy sought,
- A statement of informal attempts at resolution.

Mediation: The coordinator, at the request of the disputants, will arrange for mediation by an impartial outside party, by whose assistance the disputants will seek a mutually acceptable resolution in the interests of all parties and the university. If mediation does not produce satisfactory resolution within sixty (60) calendar days, the mediation process will be deemed to have failed.

If mediation fails, the coordinator must so certify in writing to the disputants, any other parties to the consultation, the faculty or staff grievance officer (as appropriate), and the Provost. The

disputants have thirty (30) calendar days from receipt of such certification to file a grievance under the process specified in the addenda to the REDBOOK.

Definition of Terms

Assistance. The mediator will not make decisions for the parties or decide who is right or wrong. The mediator helps the parties listen to understand and identify issues and interests important to the resolution of the conflict.

Confidential. All parties in mediation must agree that these discussions are privileged and confidential communications. If the matter should proceed to a grievance hearing, or to court or some other forum, the mediator cannot be subpoenaed to testify about what was said during the mediation. The mediation process is considered to be in the nature of a settlement conference and enjoys those legal protections and immunities.

Impartial. The mediator will be neutral and has no stake in the outcome. This neutrality will be demonstrated by the balanced and even-handed relationship the mediator creates with all parties to the process.

Mediation. Mediation is the confidential process of resolving disputes by utilizing the basic tenets of communication facilitated by an impartial person.

Mutually Acceptable. The goal of mediation is to find a solution to the dispute that is acceptable to all parties. The parties themselves decide what is important and what will satisfy their needs and expectations.

Resolution. If an agreement is reached during mediation, it will be reduced to writing and signed by all the parties participating in the mediation. Because the parties themselves created the terms of the agreement, these resolutions are implemented and followed more often than decisions imposed by a hearing officer, a court or arbitrator.

Voluntary. Successful mediation depends upon all parties' willingness and good faith to participate fully, openly and honestly in the process. If no agreement is reached through mediation, the parties have all other remedies and rights made available under University policy or public law.

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