

Procedures for Handling Complaints Referred for Mediation

Utilization of mediators in the mediation of complaints in New York's administration of the WIOA should result in a highly professional and cost effective method of dispute resolution.

The following are procedural guidelines to facilitate implementation:

1. Equal Opportunity (EO) Officers in New York's 34 local workforce development areas will be responsible for referring complaints for mediation and ensuring that the mediation process is completed within sixty (60) days of the complainant's election for mediation.
2. The Equal Opportunity Officer, in consultation with the complainant, will either continue to investigate the complaint (not addressed in this document) or refer the matter to mediation.
3. The choice whether to use Alternative Dispute Resolution (Mediation) rests solely with the Complainant.
4. If a complainant signs an Agreement to Mediate Form the complaint will be referred to one of the authorized mediators in the Community Dispute Resolution Centers (CDRC) in the different counties of the state (This can be done by fax or mail).
5. The EO Officer or CDRC will coordinate the meeting date, time, and place with the complainant, the respondent, and the mediator.
6. The mediator will assume jurisdiction of the complaint for sixty (60) days, beginning with the initial referral, in writing, from the EO Officer.
7. Within the 60-day period the mediator will conduct a mediation session(s) and submit a Settlement Agreement to the referring EO Officer. Both parties will be required to sign a Consent to Mediate Form.
8. In the event no agreement is reached the mediator will duly notify the EO Officer when mediation is terminated.
9. Mediators will be held to the highest standards of ethical conduct and agree to recuse themselves if there is a potential conflict of interest or even the appearance of a potential conflict of interest.
10. Mediators shall be qualified by a CDRC or other appropriate organizations and receive training in the particular aspects of handling discrimination complaints.
11. The Mediation Process shall be voluntary for the complainant and both parties must participate in mediation in good faith but are not required to reach an agreement.
12. Mediation sessions will be closed to any individuals other than the parties and their representatives, except by consent of the parties and the mediator. Communication and information disclosed during the mediation is privileged and confidential and shall not be disclosed to a third party, except for purpose of implementation or enforcement, or by written agreement of both parties. During the mediation process, notes may be taken. However, once the final settlement agreement has been reached or the parties are unable to reach an agreement, all notes must be turned over to the mediator for disposal.