



EMPLOYEE'S GUIDE
TO MEDIATION AND ARBITRATION

What are Mediation and Arbitration?

Mediation and arbitration allow employees and employers to resolve disputes without resorting to lawsuits.

Mediation involves bringing disputing parties together voluntarily to reach a mutually acceptable agreement using the assistance of a neutral mediator.

Arbitration occurs privately, outside the court system. In arbitration, the disputing parties tell their sides of the story to an arbitrator or panel of arbitrators. An arbitrator is a neutral person, typically a former judge or a lawyer. Parties may submit documents and provide testimony to the arbitrator. After hearing all sides of the story, the arbitrator decides the matter and issues an award. The arbitration award is binding and legally enforceable, and can be reviewed by the courts.



HOW DO EMPLOYEES AND EMPLOYERS AGREE TO MEDIATION OR ARBITRATION?

Employees and employers typically agree to mediation or arbitration when they begin employment or at any time during the employment relationship. They may sign an agreement to resolve any future disputes through mediation or arbitration rather than by bringing a lawsuit in court. An employment mediation/arbitration agreement may be a separate document that an employee and employer sign, or it may be contained within a clause in an employment contract, policy, or handbook.

HOW DO MEDIATION AND ARBITRATION COMPARE TO COURT?

Mediation is a popular dispute resolution method because the parties voluntarily negotiate an agreement with the help of a mediator and retain control over whether a settlement is achieved.

Arbitration is similar to court, but the parties agree to have the dispute decided by a neutral arbitrator rather than a judge or jury. Employees are entitled to the same substantive remedies as in court, and experts have determined that individuals win at least as often and receive as much compensation in arbitration as they do in court. Studies have concluded that arbitration is less expensive and less time-consuming than filing a lawsuit in court.

DOES THE GOVERNMENT SUPPORT MEDIATION AND ARBITRATION?

The United States Congress and the United States Supreme Court strongly endorse mediation and arbitration as alternatives to lawsuits. Congress supports arbitration through the Federal Arbitration Act.

HOW DOES CONTRACTUAL ARBITRATION WORK?

- People agree to use arbitration in a contract, such as the papers signed in connection with an employment relationship.
- Arbitration is only used when people have a legal dispute they cannot settle on their own.
- Typically, to begin an arbitration, one party completes an arbitration claim form, files it with the arbitration administrator and pays a filing fee, if any. The other party responds.
- In some systems, the parties can have a Document Hearing where an arbitrator studies the paperwork or electronic documents submitted by each party, makes a decision and issues an arbitration award.
- Parties can also opt for a Participatory Hearing where each party submits evidence and appears before an arbitrator who studies the evidence, makes a decision and issues an arbitration award.
- The arbitration decision or award is legally enforceable by the courts.

TIPS FOR EMPLOYEES

- Try to resolve your complaint directly with your employer before proceeding to mediation or arbitration. Sometimes simply talking with the employer or clarifying information may resolve the matter.
- An arbitration agreement is a legal contract between two parties. Carefully read all employment agreements and contracts before signing them. Consult with an attorney if you have any questions.
- Keep records, correspondence, and contract documents. This information might be important if a dispute arises later.
- Educate yourself. Most mediation and arbitration administrators have websites and other information available about their services. Visit us at www.adrforum.com.

ABOUT US

Founded in 1986, the National Arbitration Forum is a leader in alternative dispute resolution solutions. Our distinguished panel of over 1,500 legally trained mediators and arbitrators, located in all 50 states and 29 countries, resolves cases by applying substantive law, offering parties the same outcomes as court, but at a fraction of the time and cost.

To learn more about how we can help you, call **877-655-7755** or visit our website at www.adrforum.com.



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