

The Mediation Process (cont'd.)

- The Mediation session may be ended by the Member/Mediator, or any of the Parties if it appears that there is no hope of reaching a Settlement Agreement.

POST

- If successful, a Settlement Agreement is signed by the Parties. If a Party fails to follow the terms and conditions contained in the Agreement, it may be enforced in the same manner as an Order of the Tribunal (Section 26 of the Act).
- The Settlement Agreement is filed with the Tribunal Office.
- When a mediation is stopped or it obvious that no agreement can be reached, the Tribunal may schedule a hearing of the Notification noting that the Member who takes part in the settlement proceedings will not participate in the Hearing of the Notification.

PROHIBITED GROUNDS OR PERSONAL CHARACTERISTICS COVERED UNDER THE ACT

- Race
- Colour
- Ancestry
- Ethnic origin
- Citizenship
- Place of origin
 - Creed
 - Religion
 - Age
 - Disability
 - Sex
- Sexual orientation
- Marital status
- Family status
- Pregnancy
- Lawful source of income
- Pardoned conviction

In the Areas of:

Working or looking for Work
Joining an Organization or Association
Seeking Goods, Services, Facilities or Contracts
Renting a Home, Apartment or Business Space
Publications such as Magazines, Newspapers, Signs or Pamphlets

And

Committed within the Last 2 years



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Nunavut Human Rights Tribunal
Nunavunmi Inungnut Pitqutigiyauyunut Ihuaqhaiyit
Tribunal des droits de la personne du Nunavut

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The Mediation Process

BACKGROUND Section 25 of the *Nunavut Human Rights Act* (the "Act") allows the Nunavut Human Rights Tribunal (the "Tribunal") to try to "settle" the contents of a Notification before holding a hearing.

WHAT KIND OF SETTLEMENT PROCEEDINGS CAN BE USED BY THE TRIBUNAL? As in many jurisdictions, the Nunavut Human Rights Tribunal uses Mediation as a first attempt to settle human rights notifications prior to proceeding to a public hearing.



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Frequently Asked Questions



What is Mediation?

Mediation is an opportunity for the Applicant and Respondent (the “Parties”) to a Notification to have supervised discussions with a Member of the Tribunal and/or a Mediator.

The Member or Mediator keeps the Parties focused on the issues, helping the parties listen respectfully to each other’s concerns and to think about how they can settle the contents of the Notification in a way that is acceptable to all. The outcome of a successful Mediation is Settlement Agreement which contains the terms and conditions agreed upon by the Parties.

Who attends the Mediation?

The Parties or a person representing the parties, a Tribunal member or someone authorized by the Tribunal attend the mediation sessions. The Tribunal will consider requests for other persons to attend a mediation, upon application to the Tribunal by a Party.

What can the parties do to prepare for a Mediation session?

Any documents that you may have attached to your Notification should be reviewed. It helps to think about the issues that you may wish to bring forward and those that the other Party may present and any potential areas for agreement.

Before Mediation, each Party will have the benefit of a discussion with the Mediator who will help both Parties prepare for the first session.

The Advantages of Mediation

- A private process rather a public process;
- A means to inform and educate one-another;
- A flexible process intended to meet the needs of the Parties;
- A process that allows the Parties to seek a solution to their differences without the added costs and stresses of the hearing process;
- Information shared during the mediation process can not be disclosed outside the mediation session;
- Provides a structured and respectful environment to facilitate communication between Parties;
- The mediation process offers an opportunity to repair damaged relationships;
- Agreements reached are often more creative and satisfying to the parties than an imposed decision;
- Both parties “win” when they resolve the complaint in a satisfactory way; and
- Because Parties have crafted their own agreements, they are more likely to uphold the terms of the agreement.

The Mediation Process

PRIOR

1. The Notification is reviewed by the Tribunal using Part 4 of the *Act* to make a decision regarding the merit of the Notification. Parties are encouraged to enter into Mediation.
2. The Mediation will usually be conducted by teleconference.
3. The Mediator contacts each Party separately for a pre-mediation conference to discuss:
 - What to expect
 - Address any questions or concerns that the Party and/or representative may have prior to the mediation session.
 - Explore the party’s interest and concerns regarding the notification
 - Attempt to identify areas for potential agreement.
4. An Agreement to Mediate is signed by each Party.

DURING

5. Parties enter into the Mediation session on the agreed date by teleconference. Additional sessions may be needed.
6. The role of the Mediator is:
 - Acts as the Chair of the session
 - Establishes guidelines for conduct during session
 - Maintains a respectful and courteous atmosphere
 - Supervises the discussion
 - Assists Parties in clarifying what is in dispute
 - Encourages the Parties to identify possible solutions, and
 - Helps the Parties draft a Settlement Agreement.

