

## General information

A case taken off the docket for mediation is treated as a postponed case. If the mediation precedes the hearing date, then the case stays on the docket unless it settles.

Mediation isn't a device for obtaining discovery or for obtaining a postponement. All parties are expected to approach mediation in good faith and commit to working toward resolution.

Depending on the complexities of the case, a mediation may take several hours, all day, or even longer to achieve resolution. The mediator will stay with the process so long as the parties are making progress.

We hope this information is helpful to you. Please call the administrative assistant to the presiding ALJ, at 503-934-0104, or toll-free, 877-311-8061, in Salem, if you have other questions.

### Web address:

<http://www.wcb.oregon.gov>

Worker's Compensation Board  
2601 25th St. SE, Ste. 150  
Salem, OR 97302-1280

# Mediation: *It can work for you!*



**Workers' Compensation Board**



440-3207 (4/08/COM)

**State of Oregon  
Workers' Compensation Board**

### ***Our mediation program***

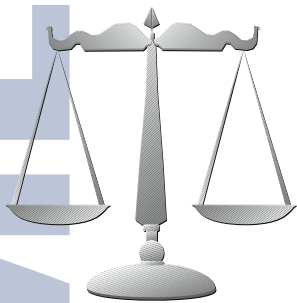
Mediation can be a positive alternative to litigation. Mediation saves time and expense, removes uncertainty, and allows the parties to create a resolution of their case in a manner that serves their best interests. Most mediations result in settlement!

In response to the continuing demand for mediation services, the Hearings Division has devoted substantial resources to its mediation program. We offer the services of administrative law judges (ALJs) trained in the formal mediation process.

Answers to the following questions can help you decide if formal mediation will work for you.

### ***Does WCB charge a fee for providing mediation service?***

No, there is no fee charged to any of the parties. Mediation is one of the services the Workers' Compensation Board provides.



### ***What types of cases are suited for mediation?***

- Mental stress cases
- Complex occupational disease claims
- Cases with old dates of injury that have both accepted and denied conditions
- Cases that also include claims under ORS chapter 659, the *Americans With Disabilities Act*, and other employment-related issues
- Cases with permanent total disability benefit claims
- Any case the parties consider appropriate for settlement

### ***Is mediation voluntary or mandatory, and what happens if the case doesn't settle?***

Our program is voluntary; all parties must want to mediate the dispute. If a case doesn't settle, it's simply put back on the docket. The ALJ who mediated the case won't preside at the hearing, and there is no communication between the mediator and the trial ALJ. The case file will simply reflect that the case didn't settle in mediation.

### ***How do I arrange a mediation?***

If you and opposing counsel have agreed on a specific mediator, you may call that ALJ or his or her secretary to schedule a mediation, or you may call the administrative assistant to the presiding ALJ in the Salem Hearings Division, 503-934-0104, or toll-free, 877-311-8061. You will be assigned an ALJ with training in mediation. Requests for a specific ALJ will be accommodated whenever possible.

### ***Where does the mediation take place?***

Mediations are usually held at the Workers' Compensation Board offices. When you arrange for a mediation, please provide the case name and number, the name of the trial ALJ, the date of the hearing if a date has been set, and two or three dates agreeable to all parties for holding the mediation.

### ***How soon will the mediation be scheduled?***

This depends upon your schedule and that of the mediator. We'll schedule the mediation as soon as we can. Please give us as much advance notice as possible. To be done properly, mediation requires preparation by all parties and the mediator. Some mediators require confidential position papers in advance, as well as time to contact the parties before the day of the mediation.

### ***Who is present at the mediation?***

Most mediators require that as many of the interested parties as possible attend. This usually includes the claimant, claimant's counsel, defense counsel, an employer representative, the claims adjuster, and anyone else with ultimate settlement authority. In addition, the claimant's spouse or a close family member may attend. However, please don't bring other lay people or expert witnesses.