

# MEDIATIONS

OAR 438-019-0000 through OAR 438-019-0060

**MEDIATION:** A voluntary process by which an independent, neutral mediator facilitates a mutually agreeable resolution to a controversy(s) between the parties without the necessity of a hearing.

## Cases Well-Suited for Mediation

- Mental stress cases;
- Complex occupational disease claims;
- Claims with old dates of injury that have both accepted and denied conditions;
- Cases with permanent total disability claims;
- Cases that also include claims under the Americans with Disabilities Act, civil rights claims with the Oregon Bureau of Labor and Industries, and claims with other employment-related issues.

## Prior to Contacting WCB to Schedule a Mediation

- Contact all parties to find out if they are agreeable to mediation;
- Keep in mind that mediation is voluntary;
- Choose a mutually-agreeable mediator and date for the mediation;
- Confirm the ALJ-mediator availability using WCB's Mediator Availability Calendar, which can be found on WCB's website.
  - Direct the web browser to: [wcb.oregon.gov](http://wcb.oregon.gov);
  - Under the "Hearings" section, select "Mediation services";
  - On the right-hand side, under "Related links", select "Mediation Availability Calendar".

## Contact WCB to Schedule the Mediation

- Mediations can be scheduled by contacting WCB in one of the following ways:
  - Contact the ALJ-mediator's Judicial Assistant;
  - Contact the Hearing ALJ's Judicial Assistant;
  - Contact the Mediation Program Coordinator (MPC)
  - Submit a Request through Online Services.
- WCB has mediators located in each of our staffed offices (Portland, Salem, and Medford). Please consider using a mediator from the office location at which the parties want to mediate if possible. This enables WCB's

mediators to have more availability to conduct mediations and results in cost savings to the agency and taxpayers.

### Mediations with a Private Mediator

- Contact the MPC or the assigned ALJ's Judicial Assistant to inform WCB that you are scheduling a mediation with a private mediator.
  - Include the date of the scheduled mediation and the name of the private mediator.
- Following the private mediation, report the mediation outcome (settled, not settled, etc.) to the MPC or the assigned ALJ's Judicial Assistant.

### Things to Keep in Mind When Scheduling a Mediation

- The ALJ-mediator may want to conduct a pre-mediation conference call.
- The ALJ-mediator may request position papers from each party in advance.
- If the claim is not currently in litigation, the Judicial Assistant will ask the parties for the following information in order to assign a case number specific to the mediation:
  - Claimant's Name
  - Claimant's Address
  - Date of Injury
  - Claim Number
  - Insurance Company/Processing Agent
  - Employer
  - Employer's Address
  - Claimant's Attorney
  - Defense Attorney
  - Mediation Location
  - ALJ/Mediator
- Please inform the ALJ's JA if any of the following apply:
  - If more than two rooms are needed.
  - If an interpreter is needed.
  - If any special accommodations are needed.
  - If the parties want to mediate with an ALJ outside of the ALJ-mediator's home office.

### What Will Happen at the Mediation

- The parties will be in separate rooms.
- There will be a question and answer session conducted by the mediator.
- The parties and the ALJ-mediator will sign a confidentiality agreement.
- With the ALJ-mediator's assistance, the parties will work to reach an agreement.

If mediation is successful, settlement documents will be drafted by the parties and submitted to the ALJ-mediator for approval of the settlement and dismissal of the case(s).

If mediation is unsuccessful, the case will remain on the docket and reset with a different ALJ for hearing. The hearing ALJ will not discuss the case or mediation with the ALJ-mediator.

#### ALJs Available for Mediation

ALJ-Mediator	Home Office	Judicial Assistant	Phone Number
Aliza Bethlahmy	Portland	Justin Geny	(971) 673-0944
Ian Brown	Portland	Kendyl Jackson	(971) 673-0941
Nicholas Cordes	Portland	Stacy Blosl	(971) 673-0930
Jacqueline Jacobson	Portland/Salem	Niki Nelson	(971) 673-0924
Greg Naugle	Salem	Leah Steffens	(503) 934-0101
Holly Somers	Portland	Stacy Blosl	(971) 673-0930
Geoffrey Wren	Portland	Justin Geny	(971) 673-0944