

# Mediation

# It can work for you!



## 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.

The Workers' Compensation Board (WCB) Hearings Division devotes substantial resources to its mediation program. It offers 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. You can visit WCB's mediation webpage at <https://www.oregon.gov/wcb/hearings/Pages/mediation.aspx>.

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

No, there is no fee charged to any of the parties.

## What types of cases are suited for mediation?

Any case the parties consider appropriate for settlement, including:

- Mental stress cases
- Complex occupational disease claims
- Cases involving both denied and accepted medical conditions
- Cases that also include claims under the Americans with Disabilities Act, civil rights claims with the Oregon Bureau of Labor and Industries, and other employment-related issues
- Cases involving permanent and total disability benefits

## Is mediation voluntary?

## What happens if my case doesn't settle?

Our program is voluntary; all parties must want to mediate the dispute. If a case does not settle, it is put back on the hearing docket. The ALJ who mediated the case will not preside at the hearing, and the mediating ALJ and the hearing ALJ will not communicate about the case. The case file will reflect that the case didn't settle in mediation.

## How do I arrange a mediation?

If the parties agree on a mediating ALJ, contact the ALJ's judicial assistant to confirm availability and start the scheduling process. If the parties do not have a specific ALJ in mind, they can contact the Mediation Program coordinator at 503-378-3308.

When you arrange for a mediation, provide the claimant name and, if possible, the WCB case number, the name of the hearing 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.

## Where does the mediation take place?

Mediations are usually held at the Workers' Compensation Board offices.

## How soon will the mediation be scheduled?

This depends on the schedule of the parties and of the mediator. Please give us as much advance notice as possible. Mediations require preparation by all parties and the mediator. A mediator may require the parties to submit a confidential position paper in advance, as well as time to contact the parties before the day of the mediation.

## Who is present at the mediation?

Anyone with decision-making power or influence should be in attendance at a mediation. This usually includes the claimant, claimant's counsel, defense counsel, an employer representative, the claims adjuster, and anyone else with ultimate settlement authority. Also, with the permission of the mediator, the claimant's spouse or a close family member may attend.

## General information

Typically, a scheduled hearing is canceled so that a mediation can be scheduled and held. If the mediation precedes the hearing date, then the case stays on the docket unless it settles.

Mediation is not a device for obtaining discovery or for delaying a hearing. All parties are expected to approach mediation in good faith and commit to working toward resolution.

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



For more information,  
call the Mediation Program coordinator at  
**503-378-3308 or 877-311-8061** (toll-free).

Web address: [oregon.gov/wcb](http://oregon.gov/wcb)

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