

# 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.
- Discuss which ALJ-mediator is mutually-agreeable.
- Discuss which dates are mutually-agreeable.
- 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\*\*\*:
  - Call the ALJ-mediator's Judicial Assistant.
  - Call the Hearing ALJ's Judicial Assistant.
  - Call the Mediation Program Coordinator (MPC) –  
Kerry Anderson (503-934-0104).
  - Submit a Request through Online Services.

\*\*\*To schedule mediations with ALJ Wren and ALJ Spangler, contact the ALJ's Judicial Assistant directly.

- The mediator can be from any WCB staffed office or the parties may choose to use a private mediator. WCB has mediators located in each of our staffed offices (Portland, Salem, Eugene, 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 of the scheduling of a private mediation.
  - Include the date of the scheduled mediation and the name of the private mediator.
- If parties to a private mediation would like to use a WCB hearing facility to hold their mediation, contact the MPC no earlier than one week prior to the mediation event to inquire about room availability.
- Rooms are also available for use by the public at the Portland State Office Building (PSOB).
  - If the parties would like to reserve rooms at the PSOB for a private mediation, the Department of Human Services staff can be contacted at either of the below numbers to request a reservation.

Tina Stokes-Gehring: 971-673-1331, or  
DHS Director’s Office: 971-673-1222

- 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 want the parties to submit a position paper prior to the mediation.
- If the claim is not currently in litigation, the Judicial Assistant will ask the parties for the following information in order to have an special case number assigned to use for the mediation:
 

<ul style="list-style-type: none"> <li>• Claimant’s Name</li> <li>• Claimant’s Address</li> <li>• Date of Injury</li> <li>• Claim Number</li> <li>• Insurance Company/Processing Agent</li> </ul>	<ul style="list-style-type: none"> <li>• Employer</li> <li>• Employer’s Address</li> <li>• Claimant’s Attorney</li> <li>• Defense Attorney</li> <li>• Mediation Location</li> <li>• ALJ/Mediator</li> </ul>
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- If any of the following special circumstances apply, inform the ALJ-mediator’s Judicial Assistant when scheduling the mediation:
  - 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 fashion a settlement.

#### Following the Mediation

- If mediation is successful:
  - Settlement documents can be drafted between the parties and submitted to the ALJ-mediator for approval of the settlement and dismissal of the case(s).
- If mediation is unsuccessful:
  - The parties may proceed with a hearing.
  - The hearing ALJ will not communicate with the ALJ-mediator about the case or settlement negotiations.

#### ALJs Available for Mediation

ALJ-Mediator	Home Office	Judicial Assistant	Phone Number
Aliza Bethlahmy	Portland	Justin Geny	(971) 673-0944
Jacqueline Jacobson	Portland	Kendyl Jackson	(971) 673-0941
Greg Naugle	Salem	Christina Cox	(503) 934-0101
Jill Riechers	Portland	Niki Nelson	(971) 673-0924
Bruce Smith	Medford	Leah Steffens	(541) 776-6217
Holly Somers	Portland	Stacy Blosl	(971) 673-0930
Kirk Spangler	Salem	Andrea Alanis-Miranda	(503) 934-0099
Geoffrey Wren	Portland	Justin Geny	(971) 673-0944