

Grievance Mediation



DEFINITION AND PURPOSE

Mediation is a private, informal way to resolve a dispute. A mediator is a neutral person who tries to aid disputing persons in reaching a mutually agreeable solution to their differences. The consent of both persons is needed if bar counsel or a grievance committee recommends mediation. The Supreme Court of Florida Board of Governors may require mediation if the dispute is before either for review of a disciplinary case.

THESE TYPES OF DISPUTES MAY BE MEDIATED

- alleged instance of incompetence by a lawyer that is not part of a pattern of incompetence, when the act is not committed in conjunction with any other rule violation, and the lawyer has not been the subject of prior disciplinary sanctions for incompetence;
- alleged refusal of a lawyer to timely return a client's file or copies thereof;
- alleged refusal of a lawyer to release a lien on a client's recovery in a case in which the lawyer has been replaced by another counsel;
- alleged refusal of lawyer to properly withdraw from representation after being fired by the client;
- alleged failure of a lawyer to conclude legal representation by failure to prepare an essential document;
- alleged failure of a lawyer to comply with a letter of protection issued on behalf of a client;
- alleged failure of a lawyer to adequately communicate to a client not causing substantial harm to the client;
- alleged neglect by a lawyer that does not cause substantial harm; and
- any other matter involving the private rights of the complainant and respondent wherein the public interest is satisfied by a resolution that dismisses the disciplinary case without further action.

This list is intended to be a guide for the parties and those making referrals to the grievance mediation program. It does not include every type of issue that may be resolved in mediation.

WHO ARE THE MEDIATORS?

Mediators are volunteers (lawyers and non-lawyers) certified by The Florida Bar, who possess the education, training, or certification in alternative dispute resolution.

WHERE WILL THE MEDIATION BE HELD?

The mediation will take place in the office of the volunteer mediator or other location agreeable to the participants.

WHO WILL BE THERE?

The complainant, the attorney or an affected third party, and the mediator should be present. However, those persons may bring a lawyer if approved by the parties and agreed to by the mediator.

WHEN AND HOW LONG DOES THIS TAKE?

The initial mediation conference will be scheduled within 45 days of the assignment of a mediator. This time may be extended by agreement of the parties and the mediator. Failure to meet this time requirement does not stop the mediation.

CONFIDENTIALITY AND WAIVER

In consenting to mediation, you agree that what is said in the mediation conference and any materials used therein will remain private.

EFFECTS OF MEDIATION

When a disciplinary file is referred to mediation, the disciplinary file is closed without the entry of a sanction and will remain closed. It is a violation of the Rules Regulating The Florida Bar for an attorney to fail to attend or fully comply with the terms of a written mediation agreement without good cause.

If the issues are not fully resolved because a complainant did not attend the mediation without good cause, the disciplinary file based thereon may remain closed.

HOW MUCH DOES IT COST?

The mediation program is free.

HOW TO START THE PROCESS

To start the process, please contact the Mediation Administrator, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300.

Notes

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