

What is Mediation?

Mediation

The mediator will contact the parties to discuss the ground rules, the process for exchanging information, the time and location of the mediation, as well as any other appropriate matter. The mediation will take place in a neutral location that is satisfactory and convenient to the parties. The parties and the mediator will also establish the duration of the mediation. During the mediation sessions, and with the mediator's help, the parties will try to reach a common definition of the facts and issues and to generate and explore various options for resolving areas of disagreement. The parties themselves will decide on the solution, as the mediator does not impose a solution.

Settlement

The mediator may assist by preparing the minutes of settlement of the main points decided during the negotiations. If the parties reach a partial settlement or no settlement, any remaining issues may then be resolved by the Agency through the formal decision-making process.



HOW IS CONFIDENTIAL INFORMATION TREATED?

All matters relating to the mediation of a dispute will be kept confidential, unless the parties to the mediation otherwise agree; this allows parties to openly express their views. Measures are in place to ensure that all material presented remains confidential. If there is no settlement and the matter is referred to the Agency for a formal ruling, the mediator cannot discuss any part of the file with his or her colleagues and will be excluded from the case. The mediator cannot be compelled to produce information or to testify regarding information obtained during mediation.

HELPFUL FORMS

- » Request for mediation
- » Agreement to mediate
- » Roles, Rights and Responsibilities of the Mediation Participants
- » Mediation Ground Rules

These forms are available on the Agency's Internet site at www.cta.gc.ca. The site also contains additional information about the Agency and its responsibilities, decisions and orders.

For more information, please contact:

**Canadian Transportation Agency
15 Eddy Street
Gatineau, Quebec K1A 0N9**

Toll Free: **1-888-222-2592**

TTY: **1-800-669-5575**

Fax: **(819) 997-6727**

E-mail: **info@otc-cta.gc.ca**



www.cta.gc.ca



Canadian
Transportation
Agency

Office
des transports
du Canada

Canada

INTRODUCTION

The Canadian Transportation Agency's mandate includes the authority to resolve various transportation disputes and complaints within its jurisdiction through mediation. Mediation can be used to facilitate dispute resolution by providing parties with an effective alternative to the more formal, court-like decision-making process of the Agency. The Agency can supply mediation services to assist parties to a dispute negotiate their own mutually beneficial settlement.

Mediation may be used to address any issues that normally fall under the Agency's more formal dispute resolution process. The Agency also has the authority to conduct mediations (as well as arbitrations) on more specialized rail-related matters.



WHAT IS MEDIATION?

Mediation is a voluntary, informal, collaborative and confidential process for solving problems. This process helps parties jointly make decisions about ways to address the issues in dispute, and to ultimately determine the outcome. Mediation is a flexible tool that enables parties to collaboratively develop a solution that meets each of their needs and that might not be available under the formal decision-making process. The process can be inexpensive as the Agency will supply the mediator and it can be very timely as, by law, the mediation of a dispute must be completed within 30 days of referral, unless the parties themselves agree to a longer time frame. Furthermore, if so desired, a mediation agreement may be filed with the Agency and enforced as if it were an actual order of the Agency.

WHAT IS THE ROLE OF THE MEDIATOR?

The mediator's role is to centre discussions on interests, not positions, so that parties may negotiate a mutually beneficial settlement. The mediator keeps the discussion focussed and improves the lines of communication.

The mediator also provides feedback on ideas generated and encourages parties to fully examine all options presented.



HOW DO I BEGIN THE MEDIATION PROCESS?

Application

To have their disputes settled by mediation parties must submit a *Request to Mediate* form to the Agency either individually or jointly. If an individual request is made, the Agency will contact the other party to determine whether it is willing to have the dispute resolved through mediation. Each party should include a brief outline of the dispute and any relevant documents as part of their request. The same information should also be sent to the other party.

It should be noted that if the same dispute has already been filed with the Agency for a formal ruling, then that case would be put on hold while the mediation process takes place. The formal case can be withdrawn if the mediation is successful, or alternatively it can be re-started if the mediation is unsuccessful.

WHO ARE THE MEDIATORS?

An Agency employee, or other approved individual trained in mediation and experienced in the transportation sector will be appointed by the Chairman to act as mediator in a particular case. If a case is not resolved through mediation, any person from the Agency involved in the mediation will not participate in the case if it proceeds through the formal Agency process.

