

456 CMR 22.00: GRIEVANCE MEDIATION IN THE PUBLIC AND PRIVATE SECTORS

Section

- 22.01: Scope
- 22.02: Confidentiality
- 22.03: Voluntary Grievance Mediation
- 22.04: Appointment of Mediator
- 22.05: Mediator's Function
- 22.06: Admissibility of Grievance Mediation in Arbitration

22.01: Scope

456 CMR 22.00 governs the procedures for mediation of grievances between parties whenever in their collective bargaining agreements or by submission they have provided for mediation through the Department. 456 CMR 22.00 applies to the mediation of grievances arising in the public sector pursuant to M.G.L. c. 150E, § 8, and in the private sector pursuant to M.G.L. c. 150.

22.02: Confidentiality

A mediator, including an arbitrator acting in a mediatory capacity, shall not be required by any administrative, arbitration, or non-criminal judicial tribunal to disclose any files, records, documents, notes, or other papers, or be required to testify with regard to any information obtained while functioning in a mediatory capacity.

22.03: Voluntary Grievance Mediation

At any time, an employee organization and employer may request mediation assistance for problems arising from the interpretation or application of terms of a collective bargaining agreement. This includes preventive mediation prior to the filing of a grievance and grievance mediation. A party making such a request shall file a petition in accordance with 456 CMR 12.12: *Filing with the Department*.

22.04: Appointment of Mediator

(1) Appointment. Upon receipt of the Petition for Grievance Mediation, the Department shall promptly ascertain whether the parties agree to grievance mediation. If the parties agree, the Department shall appoint a staff mediator. Alternatively, should the parties request an outside mediator, the Department shall assist them by providing a list from its panel of qualified individuals.

(2) Fees. The filing fee for a Petition for Grievance Mediation is the amount established by 801 CMR 4.02: *Fees of Licenses, Permits, and Services to Be Charged by State Agencies*. The cost of the filing fee shall be equally divided between the parties. The cost of an outside mediator shall be equally divided between the parties, unless they agree otherwise.

22.05: Mediator's Function

The function of the mediator is to assist the parties in reaching a voluntary settlement of the dispute prior to grievance arbitration. A mediator may hold separate or joint conferences for this purpose. An agreement to mediate, however, shall not alter a scheduled arbitration date unless both parties agree to postpone the arbitration. Unless expressly agreed to in writing by the parties, at no time shall a grievance mediator also act as an arbitrator of the same case. A grievance mediator shall not discuss any aspect of the grievance mediation process with the appointed arbitrator.

456 CMR: DEPARTMENT OF LABOR RELATIONS

22.06: Admissibility of Grievance Mediation in Arbitration

No discussions, offers of compromise, or proposed settlements generated during grievance mediation shall be admissible as evidence in an arbitration proceeding.

REGULATORY AUTHORITY

456 CMR 22.00: M.G.L. c. 23, §§ 9O, 9P, 9T(c), (d); c. 150; and c. 150E, § 8.