

U.S. Office of Special Counsel Mediation Program Frequently Asked Questions

Why should I consider using OSC's mediation program?

OSC offers voluntary mediation in selected Prohibited Personnel Practice (PPP) cases between federal employee complainants and agencies. There are several reasons why OSC's mediation program may be beneficial to both employees and agencies:

- **Confidentiality** – Mediation provides employees and agencies with an opportunity to explore and negotiate resolution of the employee's OSC complaint in a confidential setting.
- **Retain Control Over Outcome** – Employees and agencies are the sole decision-makers who determine if they will mediate and whether and how they will resolve the OSC complaint.
- **Experienced OSC Mediators** – Mediators are OSC attorneys who are trained in both mediation and PPP law, enabling them to understand the issues and to assist parties with brainstorming meaningful, creative, and innovative solutions.
- **Informal and Flexible Process** – Mediators collaborate with participants to ensure that the process is tailored to their specific needs.
- **Creative and Innovative Solutions** – Employees and agencies can customize resolution options to meet their specific needs, interests, and objectives.
- **No Cost for Mediation Services** – There is no charge for OSC mediation services.

Where are mediation sessions held?

Participants can choose to mediate online via Zoom for Government (FedRAMP) or Microsoft Teams (FedRAMP), or in-person at OSC's office in Washington, DC, or another convenient location, if travel funds permit.

Who participates in the mediation session?

In addition to OSC mediators, the employee, their attorney (if applicable), and the agency's attorney and settlement official attend the mediation session. OSC requires the agency settlement official (an agency management official with authority necessary to resolve the dispute) to attend the entire mediation session. Any individuals who would be investigated by OSC as subjects of the complaint may not serve as the agency settlement official.

What should I expect if I choose OSC mediation?

If OSC offers mediation, and both the employee and agency agree to participate in mediation, all mediation participants will be asked to sign an Agreement to Mediate, and the pre-mediation process will begin. During the pre-mediation process, mediators engage in confidential discussions with each party to better understand their perspectives and interests; facilitate information sharing; brainstorm potential options for resolution; and convey initial offers and counteroffers. Participants are expected to engage actively in the pre-mediation process. Cases may settle prior to the mediation session as the employee and agency share resolution options.

The initial mediation session is generally scheduled for 2-3 months after the employee and agency agree to mediation. Throughout the process, mediation remains voluntary; anyone may withdraw at any time.

How often do cases settle in mediation, and what happens if the case does not settle?

At OSC, more than two-thirds of completed mediations result in settlement. If the employee and agency reach a mutually-agreeable resolution, they will then write and sign a settlement agreement. If the employee and agency do not reach a settlement, the case will be transferred back to the OSC investigative attorney. Anything discussed during the mediation process remains confidential.