

Mediation FAQs

What is mediation?

Mediation is a voluntary and confidential process that relies on a neutral third party (mediator) to help individuals or groups work out a solution they can both agree on.

The mediator is a knowledgeable, unbiased process manager who uses techniques to assist the parties with communicating more effectively and negotiating more efficiently.

Mediation seeks to develop solutions that satisfy the interests of all parties.

How is mediation different from organizing a discussion ourselves?

Mediation can be a more effective option for several reasons:

- A mediator manages the process for you, allowing participants to fully take part in the discussions.
- The mediation process provides a structure for discussions in a safe and respectful environment, thus a productive exchange of information can occur.
- Mediation is typically confidential so you can have candid discussions.
- The mediation process can allow each party to understand the other party's point of view. Understanding does not necessarily mean agreement, but it can help build consensus.

What are the benefits of mediation?

Local resolution for local issues: those most impacted by the agreement build the solution, so this reduces tension and improves harmony between neighbours.

Clarifying complicated issues: mediation sorts and prioritizes complicated concepts and breaks them into manageable pieces.

Impartial process manager: mediators understand what motivates people to come to resolution, and are skilled at managing emotions during negotiation.

Flexibility fosters creative solutions: the group reviews new issues that arise, and determine together whether to integrate them into the discussions; this opens the door to better innovation.

Building positive relationships: when people go beyond personalities to come up with a “win-win” solution, it establishes more trusting relationships.

Agreement durability: when solutions are built through consensus, there is better buy-in.

Improved workplace productivity: less conflict and better communication in the workplace promotes more effective interaction between people.

Isn't it faster to go to the Municipal Government Board and get a decision right now?

Not all issues that arise between municipalities can be dealt with by the Municipal Government Board, but if it does go to the Board, it can still take significant time depending on its complexity. There can be pre-hearing preparations, and challenges can take six months or more.

What much does mediation cost?

Between 1999 and 2004, the average municipal mediation cost was \$14,000 for annexation issues and \$4,000 for a land use matter. The financial cost and the time required for mediation is quite often less than litigation.

What does it cost to hire a mediator?

The rates will vary, but typically a mediator charges between \$150 and \$200 per hour, plus expenses (location may impact costs).

Funding grants from Alberta Municipal Affairs generally cover one-third of the mediator costs, while the other two-thirds is split between the parties.

Alberta Municipal Affairs also pays the full cost of a mediator-in-training (from our approved roster) to work with the primary mediator who is fully qualified in mediation but who wants more experience with municipal issues.

How are expenses handled in mediation?

Once the grant is approved by Alberta Municipal Affairs, one municipality agrees to administer the funds for the mediation.

Who should be on our mediating team?

Since mediation focuses on a mutual gains approach, it's important to select people who are good listeners and communicators, and those who can see the big picture. A team usually has a lead representative, normally the Chief Elected Officer and the Chief Administrative Officer. Council may also request you include a Councillor who represents the area under discussion.

Do our administrative support people take part?

Sometimes, Chief Financial Officers or planning personnel are present. You decide whether these people have a voice at the table or act only as a resource.

Some of our issues are quite technical. Can the mediator help with these?

The mediator can help you decide how you reach agreement on technical questions. This can include who to consult, how you will abide by the advice, whether outside legal opinions are required, or an agreement to use technical information that already exists. However, the mediator will not provide technical advice themselves.

How much time will be spent in mediation?

Every issue is different, so municipal mediations have varied from half-a-day to forty days. Scheduling mediation meetings in advance helps everyone commit to the process. Meeting regularly keeps the momentum going.

How many mediators are typically required?

We suggest choosing two mediators since this can ensure everyone is heard when managing a large group discussion.

Can we meet with the mediator before we have joint discussions?

Each mediator has their own way of working, but typically mediators will meet separately with each party at least once to discuss the preparations for mediation.

How is mediation best structured?

During the first joint meeting, the mediator helps establish the framework and mediation protocols for the process. Items that may be included are:

- Purpose of the group (why we exist, the task at hand)
- Structure of the group (the use of observers or alternates)
- Timelines to complete the mediation
- Decision-making process
- Terms of confidentiality
- Media contact (if, when, and how contact will be made)
- Expenses (how costs will be shared)
- Meeting procedures
- Definitions of consensus
- The mediator/s involved

Is an “Agreement to Mediate” different from the protocols?

Yes, an “Agreement to Mediate” is a formal, signed contract between the parties, and includes a description of the expectation and role of the mediator/s. The Agreement outlines how the parties will share expenses, sets out confidentiality guidelines, and may indicate whether the parties want the Agreement to be legally binding or not.

The Agreement also states that the mediator does not give technical or legal advice, and cannot appear as a witness at subsequent court or board hearings.

Why is it important to include confidentiality in an Agreement?

The parties generally agree that discussions during the mediation are confidential. This allows for candid discussions during the process, making mediation more productive.

Is there a difference between confidentiality and “without prejudice”?

Yes. When parties commit to confidentiality, they are agreeing that discussions during the mediation will only be shared as they have outlined in the Agreement. For example, the parties may agree to issue a joint media release on their progress, or may establish how and when to report to Council.

The term “without prejudice” is an aspect of confidentiality, and means that neither party can make a case against the other by sharing these discussions in court or at a hearing.

Can our Council take part in the mediation?

It’s possible to have the whole Council present during mediation, but generally it’s more efficient to have representatives from Council attend.

If the full Council is not represented, doesn’t the proposal risk being voted down when it goes to Council for approval?

This is certainly a consideration. However, it can be cumbersome to have full representation from both Councils at the mediation, so it’s your decision how to proceed. One option may be to have the mediation team regularly report to Council so all of Council is kept informed and can provide their feedback as the negotiations progress.

I’ve had colleagues introduce a new issue in a meeting that our Council hasn’t taken a position on yet. Sometimes, a fellow Councilor makes a comment on the issue right away that I’m not comfortable with.

What if this happens in mediation?

Although negotiating as a team can be a complex situation, there are things you can do to help. You could take time as a team before the mediation meeting to talk about a joint approach. Or, you could suggest a break in the meeting so that your group can have that discussion. The mediators can help coach you in this regard.

Will the mediator talk about their discussions with my Council when they meet with the other Council?

Any separate discussions the mediator has with the mediation participants before or during the meetings are treated as confidential, unless a party gives permission for information to be shared.

How do we start the process of finding mediators to work with?

Alberta Municipal Affairs maintains a roster of private sector mediators. It can be found at: <http://municipalaffairs.alberta.ca/1495.cfm>

MDRS has developed the roster with the assistance of representatives from the Alberta Urban Municipalities Association, the Alberta Association of Municipal Districts and Counties, the Local Government Administration Association, the Alberta Rural Municipal Administrators' Association, and the Alberta Arbitration and Mediation Society.

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