



RULES FOR MEDIATION CONDUCTED BY CITY OF AUSTIN OMBUDSPERSON

1. Definition of Mediation. Mediation is a process under which an impartial person, the Ombudsperson, facilitates communication between the parties to promote reconciliation, resolution or understanding among them. The Ombudsperson may suggest ways of resolving the dispute, but may not impose his or her own judgment on the issues for that of the parties.

2. Referral to Mediation. Whenever the parties have been referred to mediation conducted by the Ombudsperson, these rules shall be deemed to be a part of the mediation referral.

3. Authority of Ombudsperson. The Ombudsperson does not have the authority to decide any issue for the parties, but will attempt to facilitate the voluntary resolution of the dispute by the parties. The Ombudsperson is authorized to conduct joint and separate meetings with the parties and to offer suggestions to assist the parties in achieving a resolution. If necessary, the Ombudsperson may also obtain advice from HRD concerning technical aspects of any proposed resolution.

4. Commitment to Participate in Good Faith. While no one is asked to commit to resolve a grievance in advance of mediation, all parties commit to participate in the proceeding in good faith with the intention to reach a voluntary resolution, if at all possible.

5. Representation. No employee shall be required to be represented at a mediation. An employee may be represented by a designated Grievance Representative, another City employee or any other person the employee chooses. The Department may be represented by the person of its choice.

6. Conduct by Party Representatives. By participating in the mediation, all party representatives agree to abide by these rules. No party representative shall conduct himself or herself in a manner that is disruptive to the mediation process or its intended purpose. At his or her sole discretion, the Ombudsperson may exclude any representative that fails to abide by these rules.

7. Authority of Department Representative. The Department representative must have authority to resolve the grievance.

8. Information Regarding the Dispute. Prior to the scheduled mediation session, the Ombudsperson may request the parties to provide additional information regarding the grievance.

9. Privacy. Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the Ombudsperson.

10. Confidentiality of the Mediation Process.

- A. Statements made during the course of a mediation under these rules by the Grievant, the Grievant's representative, Department management, management's representative, and/or the Ombudsperson are considered confidential. No such statements shall be repeated or referred to by any party during any grievance hearing or other part of the grievance process.
- B. The Ombudsperson shall not, and shall not be compelled to, testify concerning any aspect of a mediation in any grievance hearing under the City's Personnel Policies.
- C. No party to a grievance under the City's Personnel Policies shall rely on or introduce as evidence in any grievance hearing or other part of a grievance process: a) proposals made or views expressed by the Ombudsperson during a mediation; b) views expressed or suggestions made by another party with respect to a possible resolution of the grievance; c) admissions made by another party in the course of the mediation proceedings; or d) the fact that another party had or had not indicated willingness to accept a proposal for resolution of the grievance.
- D. The operations of government are generally considered to be public; so information in the possession of the Ombudsperson may be subject to release. All persons involved in the Ombuds process should note that written communication (e.g. any letter, memorandum, e-mail, etc.) to or from the Ombudsperson may be subject to release pursuant to the Texas Public Information Act.

11. No Record. There shall be no record of the mediation process, and no person shall tape record any portion of the mediation session.

12. Termination of Mediation. The mediation shall be terminated: a) by the execution of a grievance resolution agreement by the parties; b) by declaration of the Ombudsperson to the effect that further efforts at mediation are

no longer productive; or c) after the completion of one full mediation session. By agreement of the parties, additional mediation sessions may be scheduled.

13. Mediation Report. At the conclusion of a mediation, the Ombudsperson shall report only the following information to the Director of Human Resources and, if applicable, the Assistant City Manager(s)/Municipal Court Clerk who referred the issue to mediation:

- (1) The date the mediation was conducted;
- (2) Whether the employee attended the mediation;
- (3) Whether a representative of the Department with the authority to resolve the dispute attended the mediation;
- (4) Whether a resolution agreed to by the parties was reached; and
- (5) If a resolution was reached, how the issue was resolved.

A copy of the mediation report as set forth above will be provided to the employee and Department Director and their representatives (if any).

14. Rules Provided to All Parties. A copy of these rules shall be provided to any grievant and their representative (if any), and to the Department management and their representative (if any), at least 2 days in advance of any mediation conducted under these rules. The participation by a party in a mediation after receiving these rules shall be deemed agreement by that party to abide by these rules in their entirety.