

Mediation rules

1 Definitions

A mediation agreement is an agreement whereby the parties have agreed to seek mediated settlement of a particular dispute or in respect of disputes arising from a particular legal relationship in future mediation proceedings. A mediation agreement may be made by including a clause concerning mediation in another agreement between the parties.

Parties means the parties to a mediation agreement.

Mediator means an advocate who has been appointed to settle a dispute between the parties.

Mediation Board means a separate body responsible for managing the administration work relating to mediation and which operates under the aegis of the Finnish Bar Association.

2 Scope of the mediation rules

These rules shall only apply when the mediation procedure in the mediation agreement complies with the mediation rules of the Finnish Bar Association. The rules are deemed part of the mediation agreement. The advocate acting as mediator undertakes to comply with these rules.

The relevant parts of mediation shall comply with the rules governing professional ethics among advocates. Both parties stand in a client-contract relationship to the advocate they have appointed to act as mediator and are deemed as clients of the advocate acting as mediator in the manner referred to in §14 of the rules applying to professional ethics among advocates.

3 Commencing mediation

Parties wishing to bring a dispute to mediation for settlement should notify the Mediation Board in writing. Notification should include the names, addresses and telephone numbers of the parties and a copy of the mediation agreement.

Notification should also give a brief account of the nature of the dispute unless it is evident in the mediation agreement.

Should only one of the parties have requested mediation, the Mediation Board shall, before starting mediation, enquire as to whether the opponent desires mediation. Should the opponent not wish for mediation, it shall not be commenced.

The parties may also begin mediation by directly contacting the advocate they have appointed as mediator.

4 Appointing a mediator

Mediators shall be members of the Finnish Bar Association who have been trained in the art of mediation, and who are on the register kept by the Mediation Board.

Mediation is based on the parties' joint agreement of the advocate to act as mediator. A list of advocates acting as mediators is available from the Mediation Board on request.

The Mediation Board may, should the parties jointly request, propose an advocate to act as mediator.

Mediators shall be impartial and independent. Before accepting to act as mediator, mediators should notify the parties of any factors which may give rise to justifiable doubts as to their impartiality or independence. During mediation, mediators must also disclose any factors referred to above that the parties were not informed of earlier.

5 Representation of the parties in mediation

The parties may avail themselves of counsel or an assistant during mediation.

6 Litigation and arbitration

Should the dispute be pending in a court of law or arbitration, the parties may, if required, request that the case be adjourned for mediation negotiations. Unless otherwise agreed, mediation does not prevent the parties from taking the dispute to a court of law or arbitration for proceedings during mediation.

7 Procedure to be followed

Mediation shall comply with the procedure agreed by the parties. In the absence of any agreement in this respect, the mediator shall, having consulted the parties, determine the procedure to be followed taking all due fairness and promptness into account.

The parties shall, together with the mediator, duly seek to contribute to reaching a settlement.

Unless otherwise agreed, the mediator shall be entitled to hold confidential discussions with either party separately and to receive material from either party provided that this is not disclosed to the other party.

8 Mediator's role

A mediator shall seek to advance promptly and effectively to reach an amicable settlement of the dispute. It is not the mediator's role to act as judge, nor is the mediator entitled to issue any orders that bind the parties.

A mediator may, subject to the consent of the parties, give an assessment of the potential settlement of the case or propose a settlement to the parties.

Mediators are entitled to engage an assistant, acquire reports they deem necessary or to consult experts or other persons.

9 Confidentiality

Mediators are bound by a lawyer's obligation to maintain secrecy and undertake to keep confidential everything to which they have become privy about the parties and their circumstances. Should mediation result in consultation with outside persons, they, too, shall be subject to due confidentiality as required.

The parties undertake to keep mediation confidential. Outside mediation, the parties may not refer to any proposal made, any concession by the other party or any stand made by the mediator during mediation in order to reach settlement. The parties may not appoint the mediator as witness in any matter relating to the dispute.

10 End of mediation

Mediation ends either

- (a) with a written settlement agreement between the parties,
- (b) by the mediator notifying that there is no reason to continue mediation, or
- (c) by one of the parties notifying the mediator in writing that it no longer wishes to continue mediation.

11 Mediator's fee

The mediator shall explain his charging principles to the parties when mediation begins. Unless otherwise agreed, the parties shall each be responsible for their own mediation costs respectively and for the mediator's expenses and fees on a 50-50 basis. The mediator shall be entitled to require the parties to pay an adequate advance or provide security for his fees and expenses.