



Better conflicts, Better outcomes, Better world

CEDR

Mediation

Observer

Guidelines



2023

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Purpose of Observer's Appointment

The purpose of observer appointments is to give the observer an opportunity to:

1. experience a real-life mediation; and
2. observe and learn from the mediator, in an apprenticeship type atmosphere aimed at developing the observer through experience.

CEDR Code of Conduct for Third Party Neutrals

All observers are required to adhere to [the CEDR Code of Conduct for Third Party Neutrals](#).

Appointment of Observers

The following criteria are used when appointing an observer:

1. Participation in MyCEDR Membership.
2. Length of time an observer has been on the waiting list.
3. If the mediation is taking place in person, the proximity of the mediation location to where the observer is based. This does not apply to mediations taking place over video conference.

On average observers can expect to wait up to 12 months for an opportunity to observe. Therefore, we recommend that trained mediators seeking experience, source their own opportunities to observe mediations where possible.

Notification

The amount of notice provided by parties prior to booking a mediation can vary widely, from as little as 48 hours of notice, to one to two months. On average CEDR receive 7-10 days' notice of a mediation.

CEDR will seek to provide as much notice as possible. Please note the following:

1. All observations will be advertised through the Mediation Observer Portal.
2. It is likely that you will receive only a few days' notice of an opportunity to observe.
3. If the parties to a mediation withdraw consent to having an observer attend then your observation will be cancelled. In these circumstances, you will be placed back at the top of the observer waiting list for the next opportunity.
4. Prior to accepting an observership, all observers must run a conflict check and confirm to CEDR that he or she has not interacted with either party.

In the exceptional circumstance where an observership is cancelled, the mediator should ensure that the cancellation is communicated to CEDR and to the observer. The observer will then be eligible to be appointed to another mediation.

Pre-Mediation

Prior to the mediation:

1. The observer must sign the Mediation Agreement prior to receiving any materials and attending the mediation. Please take special note of the confidentiality provisions.
2. The mediator will make contact with the observer prior to the mediation at an appropriate time.
3. The mediator should consider how to build a working relationship with the observer, by telephone or meeting, to discuss the case and to clarify the ground rules that the observer should follow during the mediation.
4. The parties are requested to provide case summaries and supporting documents to each other and the mediator. If the parties agree, the mediator will send the observer copies of the case summaries for the observer's reference.
5. The mediator usually contacts the parties before the mediation. Where possible the mediator will invite the observer to any pre-mediation calls. Please note that the

observer's availability will not be taken into account for scheduling these calls. In the event that the observer does not attend these calls the mediator will provide a briefing prior to the mediation.

6. On occasions where the mediation is arranged at short notice it may not be possible to provide the observer with any documentation in advance or for the observer to attend the pre-mediation calls.
7. The observer must not make any contact with the parties whatsoever.
8. Where the mediation is taking place using a video conferencing platform, the observer should familiarise him or herself with the use of the platform, its settings and functionality.

At the Mediation

On the day of the mediation:

1. The observer should arrive in plenty of time to assist the mediator:
 - a. For in person mediations in arranging rooms, checking facilities, etc.; and
 - b. For video conference mediations in setting-up and testing the technology.
2. The observer should always work within the guidelines/ground rules agreed before the mediation.
3. The mediator and observer should introduce themselves to the parties and spend time with them in their rooms when they arrive.
4. The mediator might ask the observer to:
 - a. Provide logistical back-up, e.g. arrange refreshments, act as a time keeper, take notes, address technical issues, liaise with the parties when a private session for another party is over-running; and
 - b. Assist the mediator in the private session discussions with the parties including, for example writing up a flipchart between sessions (in-person or virtually), share thoughts and observations of the mediation.

5. No action should be taken by the observer without the mediator's previous agreement.

Post Mediation

After the mediation:

1. Mediator and observer should either debrief immediately following the mediation or should fix a time when this can be done – in person, by video conference or by telephone. Feedback should be given as soon as possible after the event.
2. The mediator and observer are required to submit reports to CEDR that should be completed and sent to CEDR no later than five-days after the mediation has taken place.
3. The mediator should tell the observer of any post mediation contact made with the parties, e.g. feedback or information about concluding a settlement if this did not happen on the day of the mediation.
4. At all times before, during and after the mediation, the observer must abide by the strict terms of the Mediation Agreement, especially the terms of confidentiality that apply to the mediation process.