

Mediation Guidelines

The Mediation process is an integral part of the fraternal trial. The intent of the process is to resolve the Complaint by peaceful means, avoiding the cost of trials while maintaining fraternal justice.

To this end we make the following guidelines to assist Local Aeries in the Mediation process. While these guidelines are not all inclusive, they are designed to provide a procedural approach to the Mediation process.

1. The Mediation process as it is contemplated is designed to take place only after a Complaint has been filed with the Worthy President and Trial Committee Chairman and not in anticipation of charges being filed. It is entirely separate from the trial process, and the parties' statements, acknowledgments, or admissions, are not to be used against them at trial, in the event a trial becomes necessary.
2. The fair and impartial Mediator who is a member in good standing and who may or may not be a member of the Aerie should be selected by the Worthy President on a case by case basis with the thought in mind that the Mediator should have had as little contact with the problem as possible. He should not be a person who might be a possible witness, prosecutor, defense attorney or recorder at the trial. This will assure not only impartiality in approach to the problem, but keep the Mediator and Mediation process entirely separate from the trial process, in the event a trial becomes necessary. **The Mediator cannot participate in the trial in any manner.**

3. Mediation should take place sufficiently in advance of trial to permit the process to run its course, and should be arranged as much as is possible for the convenience of the parties considering their work schedule and other commitments.
4. The Mediator has the responsibility to get the parties to meet together if possible. If he cannot do so, due to their lack of cooperation or disinterest, he may speak to them separately or try to, and if they still do not cooperate, then it may be assumed that a trial is necessary, and this should be reported on the Settlement Statement form.
5. The Settlement Statement form is an integral part of the Mediation process because it provides written documentation that the process was attempted. We recognize that parties may refuse to sign, and where this occurs the Mediator should so note, treat the same as a request for a trial and file the Settlement Statement with the Trial Committee Chairman.
6. Any conditions of the Settlement Statement must be completed within 15 days of the date of agreement. Once the Settlement Statement is signed by the parties approving a settlement in a case, it is final and binding and conclusively settles the matter. Any conditions in the Settlement Statement must be completed within 15 days of the date of the agreement.
7. Failure to fulfill the terms and conditions of the Mediation Settlement Statement constitutes grounds for filing charges of conduct unbecoming an Eagle against the party who fails to comply.

Guidelines for Mediator

When the parties to the Mediation are present, call the Mediation to order at the specified time.

Introduce yourself as the Mediator. Explain that mediation is not arbitration, and is only binding on the parties after a Settlement Statement is signed. (*Attached*)

Statement of Neutrality (By Mediator)

“For your information, other than being a member in good standing of Aerie No. _____, this Mediator has no personal or financial interest in the outcome of this dispute other than its fair and just resolution.”

Mediator to Read Ground Rules

Introduce the persons who are authorized by the Mediator to be present. Caution parties that they have a legal right to withdraw from mediation at any time and wait for trial, but that mediation will not delay the trial date.

If no withdrawals:

1. Ask Accuser to briefly state his/her complaint and advise Accused to remain silent until Accuser has finished opening remarks.
2. Ask Accused to respond to the complaint as briefly as possible.
Remind Accuser that he/she should remain silent until the Accused is finished.
3. Mediator will question each party as needed for clarification.
4. Accuser will state what he/she hopes to accomplish by making the allegation(s) and what he/she expects as a fair and just resolution.
5. Accused will then tell his/her view of allegation(s), explain his/her position or deny the truth of the charges and offer a fair and just resolution to the matter.
6. Mediator may decide to allow a few minutes of open discussion between both parties, and ask any necessary questions. If an argument develops, the Mediator shall intervene to calm down tempers.
7. Mediator shall attempt to steer the conversation to a calm atmosphere and begin settlement negotiations. If neither party agrees to a

peaceful, fair and just resolution and will not agree to compromise their differences, the Mediator will ask each to try one more time to reach an agreement on a fair and just resolution.

8. At this point the Mediator shall determine if progress has been made in the dispute. If yes, the Mediator will recap the high points and hints of an agreement he has observed in the process. This act may cause either or both parties to soften their arguments and begin a peaceful agreement.
9. Length of the process is not important in resolving the dispute. Multiple sessions over several days may be necessary. If a new hope of the parties reaching a fair and just resolution seems imminent, follow up on the process until it reaches a point where it can be written as a fair and just resolution. Get a verbal agreement, and then have both parties sign the Settlement Statement. (Remind them that after signing the Settlement Statement, it becomes a final legal document, and both can be held to its terms.

10. In the event no settlement can be reached for a fair and just resolution, the Mediator should conclude that the only course for the case must be trial.
11. If a satisfactory settlement is reached, the Mediator should congratulate the parties on agreeing to the process and being able to settle the matter as responsible members of the Fraternal Order of Eagles.

Ground Rules/Procedures

1. The parties must agree that the Mediator is in charge and will make every effort to encourage a conciliatory atmosphere while ensuring a full disclosure of all pertinent facts. Personal remarks and personality conflicts should not be brought up at this meeting.
2. The Accuser and Accused are encouraged to appreciate each other's position in the matter and to propose a settlement that will eliminate the need for a trial.
3. To be effective, the parties (Accuser and Accused) should be present for the mediation.

4. Notice should be given to both parties; however, if both sides agree to request prompt mediation and notify the Mediator, the notice can be waived and the mediation can proceed when the parties have settled on a mutually agreed date, time and place.

5. Generally, there will be no need for the parties to be represented by legal counsel at mediation since the process is an attempt to bring the disputing parties together in an informal setting to resolve their differences.

6. No witnesses shall be present.

7. Mediation can be more successful with all of the parties present face to face.

8. The parties can agree to a mutual settlement in the matter at any time during the mediation procedure. If this happens the parties will sign a Settlement Statement with the agreement duly noted and signed.

9. If, following a thorough discussion of all the pertinent facts, the parties are unable to resolve the matter, the Mediator will then make his suggested settlement. The Mediator's recommendation can either be made orally or in writing, and will be provided to both parties at the conclusion of the mediation

procedure. The parties can agree to the Mediator's proposed resolution at that time. If neither of the parties desires to give additional consideration to the Mediator's suggested resolution, both parties will be given a specified time, to consider the suggested settlement and to advise the Mediator of their acceptance or rejection of the settlement. (Acceptance is in the Official form of a Settlement Statement.)

10. If either of the parties rejects the proposed settlement, the mediation procedure will be deemed concluded and the matter will proceed to trial.

11. Any party who does not respond to the Mediator within the specified time will be deemed to have rejected the suggested settlement and trial shall proceed on the date set by the Trial Committee.

12. A Settlement Statement may be filed with the Trial Committee anytime before the trial starts.

The Mediator must be a member in good standing, who may or may not be a member of the Aerie who is widely respected for fairness, experience and impartiality. Only if all parties to the mediation are confident of impartial determination will mediation procedures be successful.