



Office of the
Ombudsman
for United Nations Funds and Programmes

MEDIATION RULES

**OFFICE OF THE OMBUDSMAN
FOR UNITED NATIONS FUNDS &
PROGRAMMES**

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The Office of the Ombudsman for United Nations Funds and Programmes (the “Office”) is a confidential, neutral, independent, and informal resource for all members of the UNDP, UNFPA, UNICEF, UNOPS, and UN Women workforce. The Office helps to prevent and resolve workplace-related issues regardless of the type of contract or position of the involved personnel.

Please feel free to contact the Mediation Unit if you have any questions about mediation services.

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AGREEMENT WITH THE RULES & MEDIATION PLEDGE

By agreeing to or engaging in Mediation offered by the Office of the Ombudsman for United Nations Funds and Programmes (the “Office” or the “Office of the Ombudsman”), you **agree to and accept** these Mediation Rules. If you have any questions or reservations regarding these Rules, please refrain from engaging in Mediation and promptly notify the Office so any concerns can be addressed. These Mediation Rules are developed based on the Terms of Reference for the Office,¹ the relevant provisions contained in the United Nations Staff Rules,² the United Nations Dispute Tribunal Rules of Procedure,³ the United Nations Appeals Tribunal Rules of Procedure,⁴ and other relevant rules of the United Nations Funds and Programmes served by the Office.

All the five UN organizations served by the Office have signed the following **mediation pledge**:

In the event of a workplace conflict between [the organization] and a member of its personnel, the

¹ Terms of Reference for the Office of the Ombudsman, Rev. 22 June 2016, available at <https://fpombudsman.org/wp-content/uploads/2017/06/Final-TOR.pdf>.

² United Nations Staff Rules, available at <https://policy.un.org/browse-by-source/staff-rules#Rule%2011.2>.

³ United Nations Dispute Tribunal Rules of Procedure, Rev. 16 December 2009, available at <https://www.un.org/en/internaljustice/pdfs/2009-12-16-undt-rop.pdf>.

⁴ United Nations Appeals Tribunal, Rev. 25 December 2021, available at <https://www.un.org/en/internaljustice/pdfs/UNAT%20Rules%20of%20Procedure.pdf>.

organization is prepared to discuss the possibility of resolving the conflict through Mediation.

At the request of the member of personnel or of [the organization], an initial discussion on the suitability of Mediation will be hosted by the Mediation Unit of the Office of the Ombudsman for United Nations Funds and Programmes.

At any time during the mediation process after the initial discussion, if one or both parties believe that Mediation is not viable in their case, either party may withdraw and proceed with formal options to resolve the matter.

Although the mediation pledge does not mandate mediation, the organizations that have signed it have committed to considering mediation in every case.

The mediation services offered by the Office of the Ombudsman are free of charge.

1. DEFINITIONS

- (a) **Party** or **Parties**: Members of the United Nations workforce, regardless of their type of contract or position, or any of the United Nations Funds and Programmes served by the Office (UNDP, UNICEF, UNFPA, UNOPS, and UN Women), who have agreed to or engaged in Mediation to resolve their conflicts involving workplace issues.⁵

⁵ The term “conflict” and “dispute” are used interchangeably in these Rules.

- (b) **Mediation:** A confidential conflict-resolution process wherein the Parties in conflict voluntarily engage in a constructive dialogue facilitated by a Mediator to resolve their conflict.
- (c) **Mediator:** A staff member of the Office of the Ombudsman, a member of the Global Mediation Panel, or a consultant mediator engaged by the Office who conducts the Mediation in a neutral manner.
- (d) **Global Mediation Panel:** A network of external on-call mediators approved by the Office.

2. VOLUNTARY PARTICIPATION AND TERMINATION

Mediation is voluntary, and either Party or the Mediator can terminate the process at any time by providing written notice, e.g., via email.

3. APPOINTMENT OF A MEDIATOR

- (a) The Office appoints a Mediator at its discretion. The Parties are welcome to share any preferences over specific qualifications or characteristics of a mediator they might have, but those do not bind the Office. The Office may appoint one or more Mediators to handle a case.
- (b) The Office has developed a network of mediators worldwide (Global Mediation Panel) who speak over 45 languages and are available to support in appropriate cases, in person or virtually. The Panel reflects the diversity of the workforce in the UN.

4. METHODOLOGY & DECISION MAKING

- (a) The Mediator will fix the date and the time of each mediation session in consultation with the Parties. The Mediation will be held at the Office's premises, virtually, or at such other place as the Parties and the

Mediator agree. The Mediator may meet with the Parties jointly or separately.

- (b) The Mediator may conduct the Mediation in such a manner as they consider appropriate, taking into account the circumstances of the case and the preferences of the Parties.
- (c) The Parties understand that the Mediator will not make a decision for them and that they are in control of the outcome of the Mediation. However, if necessary, the Mediator may make a mediator's proposal to help the Parties resolve the conflict in what the Mediator deems reasonable for all Parties. The mediator's proposal is non-binding, and the Parties can freely accept or decline it.

5. COMMUNICATION DURING MEDIATION

- (a) The Parties agree to mediate the issues between them in good faith.
- (b) Each Party will seek to understand the other Party's point of view, concerns, and interests and treat the other Party and the Mediator respectfully.
- (c) The Parties agree to be cooperative during the Mediation. The Mediator will assist the Parties to reach a resolution of their conflict by facilitating communication and negotiations as needed.

6. REPRESENTATION AND AUTHORITY TO SETTLE

- (a) Participation of a representative (e.g., counsel, advocate, or family member) in Mediation is not required, and Parties are encouraged to participate in Mediation directly. However, if they need to act through a representative, they should promptly communicate this with the Mediator.
- (b) By engaging in Mediation, a Party confirms that a person with full authority to settle the issues between

them will participate in the Mediation session. In the event that the authorized person cannot be present, the participating Party agrees to promptly secure confirmation from the individual with full authority.

7. CONFIDENTIALITY

- (a) Unless the Parties and the Mediator agree otherwise, everyone involved in the Mediation, including the Mediator, the Parties, and other participants, will keep confidential all information relating to the Mediation except that:
 - (i) Materials and oral statements that are in the public domain are not protected under these Mediation Rules;
 - (ii) Materials of a Party that existed before the Mediation belong to that Party;
 - (iii) Information can be disclosed to and circulated within the Office of the Ombudsman;
 - (iv) Disclosure is permitted per the Terms of Reference for the Office, including when the Office determines that there appears to be an imminent risk of serious harm and there is no other reasonable option for confidentially handling the matter; and
 - (v) Disclosure is permitted as needed to enforce a mediated settlement agreement per the applicable United Nations rules and regulations.
- (b) For the avoidance of doubt, all documents prepared for and all oral statements made during Mediation are absolutely privileged and confidential with regard to proceedings before the United Nations Dispute Tribunal or the United Nations Appeals Tribunal and

shall never be disclosed to these Tribunals.⁶ No mention shall be made of any mediation efforts in documents or written pleadings submitted to the Tribunals or in any oral arguments made before the Tribunals.⁷ However, when the Tribunals are to determine the dates and extent of the involvement of the Office of the Ombudsman in a case before it, upon the request of the Tribunals or both Parties, the Office of the Ombudsman may issue a certificate confirming the start and end dates of the Mediation process without disclosing any information pertaining to the substantive discussions that took place during the Mediation process.

- (c) The Parties agree that they will not call the Mediator or a member of the staff of the Office as a witness or require them to produce any notes or evidence in any subsequent formal proceedings. The Mediator, the staff of the Office, and the Parties will not testify regarding anything said during Mediation unless there is an imminent risk of serious harm and there is no other reasonable option for confidentially handling the matter, as determined by the Office of the Ombudsman.
- (d) Participants in the Mediation will not make recordings or transcripts in any format of any part of the Mediation.
- (e) After the Mediation concludes, the Office may share a survey with the Parties for feedback on their experience. The Parties are expected to provide honest and sincere feedback. They also consent to the Office using the anonymized survey responses for internal purposes, such as to be included in

⁶ United Nations Dispute Tribunal Rules of Procedure, Rev. 16 December 2009, Article 15.7, available at <https://www.un.org/en/internaljustice/pdfs/2009-12-16-undt-rop.pdf> and United Nations Appeals Tribunal Rules of Procedure, Article 15.1, available at <https://www.un.org/en/internaljustice/pdfs/UNAT%20Rules%20of%20Procedure.pdf>.

⁷ Id.

summarized form in the Office's materials and publications.

7. SETTLEMENT AGREEMENT

- (a) The Parties may ask the Mediator for help in memorializing any agreement. However, it is the Parties' responsibility to ensure that the agreement is recorded correctly, whether it is in the form of an email or a written document signed by the Parties. Any final agreement will bind the Parties, who shall make a good-faith effort to implement it.
- (b) The Mediator is not responsible for the content of the agreements reached by the Parties, nor for interpreting, overseeing, or ensuring the execution of these agreements.
- (c) A Party who is a UN staff member can apply to the Dispute Tribunal to enforce a settlement agreement reached with a UN organization in Mediation in accordance with the UN Staff Rules and Tribunal procedures.⁸

8. FORMAL DEADLINE AND SUSPENSION OF ACTION

- (a) Requesting mediation services and engaging in Mediation is not a formal report or complaint. Mediation is without prejudice to the right to pursue the matter formally in accordance with the United Nations Staff Rules.
- (b) Requesting mediation services and engaging in Mediation does not stop the deadlines to submit a Request for Management Evaluation, file with the United Nations Dispute Tribunal, or appeal to the United Nations Appeals Tribunal from running.

⁸ United Nations Staff Rules, Rule 11.4(g)(iii), available at <https://policy.un.org/browse-by-source/staff-rules#Rule%2011.2>.

- (c) Notwithstanding the above, the Parties understand that pending efforts at Mediation, these deadlines may be extended in accordance with United Nations Staff Rules 11.2(c), 11.2(d) and 11.4(c).⁹ The Parties are encouraged to promptly work with the Office to make a request for an extension when appropriate.
- (d) The Parties acknowledge that requesting mediation services and engaging in Mediation does not suspend the implementation of a contested administrative decision.

9. REFERRAL TO MEDIATION

Mediation services can be requested at any time before, during, or after the Parties choose to pursue the matter formally. The Parties can request mediation services on their own initiative, individually or jointly, or the case may be referred to the Office by a non-Party, such as the overall supervisor or HR. At any time during the proceedings, including at the hearing, the United Nations Dispute Tribunal may propose to the Parties that the case can be referred for Mediation and that the proceedings be suspended.¹⁰

10. CONFLICT OF INTEREST

If either Party or the Mediator becomes aware of a potential conflict of interest, they shall immediately advise the Office of Ombudsman of the possible conflict of interest. Upon recommendation of the Office, if the Parties and the Mediator agree that the potential conflict of interest can be waived (disregarded), they can continue the Mediation.

⁹ Terms of Reference for the Office of the Ombudsman, Rev. 22 June 2016, Paragraph 5.2, available at <https://fpombudsman.org/wp-content/uploads/2017/06/Final-TOR.pdf>.

¹⁰ United Nations Dispute Tribunal Rules of Procedure, Rev. 16 December 2009, Article 15.1, available at <https://www.un.org/en/internaljustice/pdfs/2009-12-16-undt-rop.pdf>.

11. REPRISAL

The Parties shall not be subject to any reprisal as a result of using the services of the Office.¹¹ Anyone who engages in such reprisal may be subject to disciplinary measures in accordance with Chapter X of the United Nations Staff Rules if such misconduct is established.¹²

12. CHANGES

These Mediation Rules become effective as of 1 January 2024. The Office reserves the right to modify the Rules without notice. However, the pending Mediations will continue to be subject to the Rules under which they have commenced.

¹¹ Terms of Reference for the Office of the Ombudsman, Rev. 22 June 2016, Paragraph 1.4, available at <https://fpombudsman.org/wp-content/uploads/2017/06/Final-TOR.pdf>.

¹² Id.