

Mediation

A VALUABLE ASSET FOR RESOLVING CONFLICTS



Commission des normes, de l'équité,
de la santé et de la sécurité du travail
cnesst.gouv.qc.ca/mediation

CNESST

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The Act respecting labour standards governs the working conditions of a large number of employees. Whether you are an employer or an employee, the day may come when you are involved in a complaint related to a prohibited practice under the Act, a dismissal not made for good and sufficient cause, psychological or sexual harassment or a difference in treatment in relation to pension plans or other employee benefits solely on the basis of hiring date. If that happened to you, you would maybe like to find a solution to the dispute without necessarily having to instigate often lengthy and costly legal procedures.

What is mediation?

Mediation is a service made available to employees and employers to help them find a satisfactory solution to the dispute between them. Facilitated by a qualified and impartial professional who is responsive to your needs, mediation is a voluntary process and you are free to leave the mediation table at any time during the process. Your sole commitment is to be open to finding a fair solution. Please note that if you so choose, you may be accompanied by a person of your choice who can advise you.

HAVE YOU CONSIDERED MEDIATION? THE COMMISSION DES NORMES, DE L'ÉQUITÉ, DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL (CNESST) OFFERS YOU THIS OPTION.



An expeditious service

The moment the CNESST receives a complaint related to prohibited practices, dismissal not made for good and sufficient cause or psychological or sexual harassment, a designated professional contacts you to offer you the mediation service. With your consent and the consent of the other party involved, the professional will schedule a mediation session.

A service focused on communication

In an atmosphere conducive to exchanges, the mediator will assist you in establishing a dialogue with the other party. Your openness to listening to the other party's proposals will foster positive exchanges. In the presence of one another, you will have the opportunity to express your particular points of view, contemplate possible solutions and negotiate the terms of an agreement based on free consent. A fair, confidential and respectful mediation process based on open communication paves the way to achieving solutions satisfactory to both parties.

A beneficial service

Mediation enables you to:

- Actively participate in the search for a satisfactory solution to the dispute;
- Keep control over the decision-making process;
- Save time and money and limit concerns;
- Reach an agreement based on free consent.

If no agreement is reached, the CNESST promptly forwards the complaint to the Tribunal administratif du travail and offers the employee the option of being represented by one of its attorneys free of charge. In the case of a psychological or sexual harassment complaint, it will be entrusted to a psychological or sexual harassment investigator.

The mediator's role

The CNESST's mediators are subject to ethical rules. They must be neutral and avoid taking sides for or against the employer or employee. The mediator has a duty of impartiality, fairness and confidentiality. The mediator's role is to:

- ◆ Explain the rules of the mediation process to you;
- ◆ Inform you of your rights and obligations under law;
- ◆ Provide you with support during the entire process without ever deciding on your behalf;
- ◆ Create an atmosphere conducive to dialogue;
- ◆ Help you express the facts in dispute;
- ◆ Help you find settlement options;
- ◆ Help you clearly evaluate the situation and proposed solutions, without exerting pressure or influence on you or the other party to accept the agreement;
- ◆ Make sure you are satisfied with the agreement.

To remain fully objective in the process, the mediator must not have previously acted in other capacities in your case. Also, the information you provide during the mediation mandate is confidential and no one may compel the mediator to disclose it. These guarantees are provided under sections 123.3 and 125 of the *Act respecting labour standards*.

Nature of the agreement

Although the settlement agreement must be approved by both parties, the mediator is mandated to help and support them in drafting this agreement. If the mediator considers that the agreement creates a situation where one of the parties is clearly disadvantaged or prejudiced or that the agreement is based on incomplete or false information, the mediator must:

- Inform the parties thereof and, if deemed necessary, suspend or terminate the mediation process;
- Encourage the parties to make their decisions based on adequate and sufficient information;
- Invite the parties to consult another resource person to benefit from pertinent expertise and advice;
- Not countersign any agreement that goes against public policy.



Know how to prepare!

To achieve the best possible outcome in mediation, preparation is key. To prepare, you may visit our website where you will find a wealth of available information. To even better prepare for mediation, consider possible solutions and write up a memory aid.

What happens during a mediation session?

If you would like more information on what to expect during a mediation session, the CNESST invites you to visit the cnesst.gouv.qc.ca/mediation webpage and watch the video clip titled *La médiation* (in French only). Knowing how a mediation session unfolds will help you to make informed choices before committing to the process.

Should you require assistance or information, contact us at **1 844 838-0808**.

“Preparation is key to achieving the best possible outcome in mediation”



To contact us
cnesst.gouv.qc.ca
1 844 838-0808



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