

## Three good reasons to use mediation

### Reduce costs



### Save time



### Stay in control



## Find a mediator

A professional mediator in private practice may, for example, be a lawyer, a notary, a social worker, a human resources consultant, an engineer or an accountant.

Contact these organizations to find a mediator:

- Barreau du Québec (for lawyer-mediators)
- Chambre des notaires du Québec (for notary-mediators)
- Institut de médiation et d'arbitrage du Québec (for all types of professional mediators)

For further information on mediation and other private dispute prevention and settlement methods, see [www.justice.gouv.qc.ca](http://www.justice.gouv.qc.ca)

# CIVIL AND COMMERCIAL MEDIATION

### For more information

The information summarized in this document was valid at the time of printing. For more information, go to the website of the Ministère de la Justice at [www.justice.gouv.qc.ca](http://www.justice.gouv.qc.ca), or contact

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*this publication is also available in English.*

Note : La forme masculine utilisée dans le texte désigne aussi bien les femmes que les hommes.

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Through mediation, the parties to a dispute can play a voluntary, active role in seeking solutions, with the help of a neutral person known as a mediator.

The mediator does not settle the dispute, but helps the parties to express their needs and interests with a view to reaching an agreement that is satisfactory to them all.

**Under a new legal requirement that came into force on January 1, 2016, a person must now consider the use of private dispute prevention and settlement methods such as mediation and negotiation before taking the matter before the courts.**

## When should mediation be used?

Mediation can be used for many types of disputes, including the following:

Civil disputes involving:

- neighbours, successions, insurance, hidden defects, consumer goods or services, civil liability, etc.

Commercial disputes involving:

- intellectual property (trade marks, copyright, patents), disagreements between shareholders, contracts (suppliers, commercial lease, franchise, failure to comply with a non-competition clause), etc.

**You may use mediation even if your case is being heard by a court.**

## Reduce your costs

- Share the cost of a mediator with the other party (fees and travel expenses), unless otherwise agreed or ordered.
- Choose whether or not to be represented by legal counsel.
- In many cases, save the costs associated with witnesses and experts.
- Save on legal fees when you reach an out-of-court settlement.



## Save time

- Settle your dispute in a few days or weeks.
- Avoid legal delays.
- Agree on a deadline by which you must try to reach an agreement.



## Stay in control

- Decide the outcome of your dispute instead of letting the court impose a solution.
- Agree on the choice of a mediator.
- Take advantage of a flexible process that will move forward at your pace. For example, you can use mediation outside your working hours.
- Negotiate confidentially.



## A brief overview of the mediation process

The mediation process may vary, depending on the approach applied.

### 1 – Pre-mediation

The mediator may contact you and the other party (individually) to explain certain elements, including the mediation process.

The mediator will usually prepare a mediation agreement setting out the terms of the task you have entrusted to him or her. You must sign this document before or at the first mediation session.

### 2 – Mediation

You may attend one or more mediation sessions, as needed. At these sessions, you will try to find solutions that are satisfactory to both of you.

You will express your view of the dispute, along with your needs and interests. The mediator will facilitate dialogue between you and the other person.

Note: You, the other person or the mediator may put an end to the mediation process at any time.

### 3 – Settlement

You may agree on solutions to settle your dispute.

In this case, the mediator will prepare a mediation report setting out the elements on which you agree, or an agreement in principle.

You may simply apply your agreement amicably, or you may have it homologated by the court, to give it the same value as a court ruling. If the agreement is homologated, the solutions it contains can be enforced if either of the parties fails to comply (in this case, legal fees will apply).

Note: You maintain your right to go to court if your mediation attempt fails.