St. Cloud State University
Mediation Program Charter
Workplace Dispute Resolution

AFSCME, FA, MAPE, MMA, MSUASSF, MnSCU Administrators

St. Cloud State University.
A tradition of excellence and opportunity
St. Cloud State University Mediation Program

Program Charter

St. Cloud State University Mediation Program
AFSCME, FA, MAPE, MMA, MSUAASF, MnSCU Administrators
Workplace Dispute Resolution

Purposes

1. To encourage the use of voluntary mediation as an alternative means of resolving workplace disputes arising among and between St. Cloud State University (SCSU) employees which might otherwise remain unresolved or be processed through the grievance/complaint procedures. The SCSU employees currently covered under this plan include members of the following:
   • American Federation of State, County, and Municipal Employees (AFSCME)
   • Faculty Association (FA)
   • Minnesota Association of Professional Employees (MAPE)
   • Middle Management Association (MMA)
   • Minnesota State University Association of Administrative and Service Faculty (MSUAASF)
   • MnSCU Administrators

2. To assist the AFSCME, FA, MAPE, MMA, MSUAASF, and the MnSCU Administrators at SCSU in addressing disputes where the parties (a) believe the issue might be better handled outside the normal grievance/complaint process, or (b) desire to resolve the problem locally.

The Mediation Model

Mediation is defined as the voluntary process in which two or more parties engage in an attempt to negotiate or resolve their dispute with the aid of a mediator or team of mediators who serve to facilitate all parties. The mediators do not decide who is right or wrong but rather aid all parties in arriving at a solution to the dispute. The solution to the dispute must not violate the agreements between MnSCU and the collective bargaining units or applicable laws and federal and state statutes. The mediators control all of the procedural aspects of the mediation process, but only the parties determine and reach appropriate and voluntary settlement. Depending upon the nature of the dispute settlement, additional personnel might be required to approve the mediated settlement agreement where appropriate.
Each party in a dispute comes to mediation with the objective of "negotiating" a settlement with the other party. Each party is expected to come to mediation in good faith. Good faith means that each party comes to mediation in order to genuinely attempt to reach a voluntary settlement and resolve the dispute. If secondary objectives surface in the mediation process that indicate that either party is not acting in good faith, the mediation process will be terminated. There are no "winners" or "losers" in the mediation process. All parties can expect to find their way toward a mutually agreeable solution.

Mediation has been shown to be an effective means of alternative dispute resolution (ADR) in a collective-bargaining environment. Some advantages of mediation include early closure of disputes and much lower costs when compared to arbitration.

Coordinating Committee, Mediator Coordinator(s), and Mediators

1. A joint coordinating committee consisting of up to three members for each bargaining unit and the administration shall be convened to oversee and implement the SCSU Mediation Program. Each group will select its own representatives. This committee will be known as the Coordinating Committee.

2. The main responsibility of the Coordinating Committee is the management of the SCSU mediation program by
   • evaluating each Request for Mediation to see if the case is appropriate for mediation;
   • promoting the program and its interests within the university and the MnSCU system;
   • seeking regular feedback from the bargaining units, administration, and mediation participants regarding the effectiveness of the SCSU mediation program;
   • assessing, evaluating, and modifying the SCSU mediation program and submitting an annual summary report to the President and to participating bargaining units
   • appointing the Mediator Coordinator(s); and
   • recommending appropriate mediation practices.

3. The Mediator Coordinator(s) sits on the Coordinating Committee and serves as liaison between the Coordinating Committee and the mediators, convenes regular meetings for mediators, reports on the status of mediations when necessary and possible, and prepares the annual summary report which is submitted to the President and participating bargaining units. (When appropriate two may serve as co-coordinators in the position of Mediator Coordinator.)

4. A pool of bargaining-unit and administration members serve as mediators. Mediators must complete the SCSU Mediation training or have equivalent training and practice that focus on the relevant contracts and on interest-based mediation practices. They must attend the regular meetings of the mediators convened by the Mediator Coordinator(s).
5. Mediators participate in mediations, support parties during the intake process, and meet regularly to work on mediation skills and to discuss problems in ongoing cases.

6. The Mediator Coordinator(s) are responsible for organizing and facilitating intake for parties requesting mediation.

7. The Coordinating Committee and mediators will be provided with on-going training for dispute resolution with particular focus on interest-based problem solving, conflict resolution, and mediation.

8. The Coordinating Committee will make recommendations concerning the process and procedures of compensation in accordance with the relevant collective bargaining agreements. The Coordinating Committee's recommendations regarding compensation will be taken to Meet and Confer for all relevant units on campus.

9. Each bargaining unit agrees with the SCSU administration not to use mediation for purposes of discovery in grievances.

10. The Coordinating Committee will review each Request for Mediation and will discuss and confirm whether mediation is appropriate for a particular dispute. For disputes that the Coordinating Committee has deemed appropriate for mediation, the Mediator Coordinator(s) will assign mediators. Appropriate information may be used in the assignment of a mediator such as prior involvement in a dispute, time conflicts, work unit assignment, and so on.

11. The Coordinating Committee decisions shall be arrived at by consensus. Consensus does not require unanimity, but it does require substantial agreement arrived at through a process where each group member has an opportunity to provide his or her voice and views on the issue at hand. Even if there is not unanimity among the members of the Mediation Coordinating Committee, consensus has been reached if all members feel they have been given a fair chance to make their case.

12. Any issues or problems regarding the SCSU Mediation Program will be addressed by the Coordinating Committee. The Coordinating Committee may make recommendations for changes in the program through appropriate channels, such as Meet and Confer.

Mediation and Its Relation to Other Dispute Resolution Processes
Mediation can be an alternative to grievance and MnSCU 1B.1 complaint processes. Complaints filed under MnSCU 1B.1 Nondiscrimination in Employment and Educational opportunity may be referred to mediation as part of an informal step toward resolution.
1. The bargaining units and administration have defined the following relationships between grievance and mediation:

- **AFSCME**
  No issues under the collective-bargaining agreement can be brought to mediation.

- **FA - Grievance Mediation Model**
  Any issue under the collective-bargaining agreement can be brought to mediation. If a grievance has been filed, an attempt to resolve the problem at the informal step should precede the filing of the Request for Mediation.

- **MAPE - Grievance Mediation Model**
  Any issue under the collective-bargaining agreement can be brought to mediation. If a grievance has been filed, an attempt to resolve the problem at the informal step should precede the filing of the Request for Mediation.

- **MMA**
  No issues under the collective-bargaining agreement can be brought to mediation.

- **MSUAASF - Grievance Mediation Model**
  Any issue under the collective-bargaining agreement can be brought to mediation. If a grievance has been filed, an attempt to resolve the problem at the informal step should precede the filing of the Request for Mediation.

- **SCSU MnSCU Administrators**
  No issues under the MnSCU Administrator Plan can be brought to mediation.

2. The mediation model will be implemented as follows:

- **AFSCME**
  The parties have the right to decline to participate in the mediation procedure.

- **FA**
  The parties have the right to decline to participate in the mediation procedure and to have the matter processed through the normal grievance procedure or other appropriate procedure(s). All relevant timelines, such as grievance timelines, shall be deferred. Filing the Request for Mediation automatically suspends any grievance timelines. The "clock" restarts at the termination of the mediation process or if the Coordinating Committee determines that the dispute is inappropriate for mediation. Any party or mediator may terminate the mediation by giving written notice (email notice is sufficient) to all the other parties and mediators in the mediation. The mediators in the mediation are responsible for giving notice of the termination to the Coordinating Committee via the Mediation Coordinator. In any event, the mediation process shall be concluded within a reasonable time as determined by the Coordinating Committee.
• MAPE
The parties have the right to decline to participate in the mediation procedure and to have the matter processed through the normal grievance procedure or other appropriate procedure(s). All relevant timelines, such as grievance timelines, shall be deferred. Filing the Request for Mediation automatically suspends any grievance timelines. The "clock" restarts at the termination of the mediation process or if the Coordinating Committee determines that the dispute is inappropriate for mediation. Any party or mediator may terminate the mediation by giving written notice (email notice is sufficient) to all the other parties and mediators in the mediation. The mediators in the mediation are responsible for giving notice of the termination to the Coordinating Committee via the Mediation Coordinator. In any event, the mediation process shall be concluded within a reasonable time as determined by the Coordinating Committee.

• MMA
The parties have the right to decline to participate in the mediation procedure.

• MSUAASF
The parties have the right to decline to participate in the mediation procedure and to have the matter processed through the normal grievance procedure or other appropriate procedure(s). All relevant timelines, such as grievance timelines, shall be deferred. Filing the Request for Mediation automatically suspends any grievance timelines. The "clock" restarts at the termination of the mediation process or if the Coordinating Committee determines that the dispute is inappropriate for mediation. Any party or mediator may terminate the mediation by giving written notice (email notice is sufficient) to all the other parties and mediators in the mediation. The mediators in the mediation are responsible for giving notice of the termination to the Coordinating Committee via the Mediation Coordinator. In any event, the mediation process shall be concluded within a reasonable time as determined by the Coordinating Committee.

• SCSU MnSCU Administrators
The parties have the right to decline to participate in the mediation procedure.

Procedural Groundrules for Mediation

1. All dispute resolutions shall be treated as non-precedential unless mutually agreed to by the bargaining units and the administration, and shall not be used for discovery in other processes - for example, for grievance or other processes, within the confines of applicable statutes (e.g., see Rule 114 of the MN General Rules of Practice).

2. Mediation must be voluntary.
3. Mediators, members of the Mediation Coordinating Committee, and the Mediator Coordinator(s) must agree to confidentiality of the mediation process. Violations of confidentiality shall be addressed by the Mediation Coordinating Committee. The Coordinating Committee will recommend to the president appropriate administrative action, depending upon the severity of the violation.

4. The formal records of each mediation are the Request for Mediation, the Agreement to Mediate, the 1B.1 Addendum to the Agreement to Mediate (where applicable), the Evaluation by the parties, the Evaluation by the Mediators, and the summary of the disposition and agreement. These records are subject to the Minnesota Government Data Practices Act and shall be treated in accordance with the applicable privacy classification.

5. Any party may request a written mediated settlement agreement. If all parties agree and construct a written agreement, then it becomes one of the formal records of the mediation.

6. Each party has the authority to approve or disapprove any settlement.

7. All parties in a mediation as well as the Mediation Coordinating Committee, the Mediator Coordinator(s), and the mediators may recommend additional parties or consultants to the mediation. Unless all parties in the mediation, including the mediators, agree voluntarily to include the additional parties or consultants, they will not be added to the mediation.

8. Complaints Filed with Outside Authorities
   
   a. Participants in any mediation have an obligation to inform all parties of any complaints regarding the same dispute which are filed with outside authorities, including the EEOC, the Human Rights Department, and civil and criminal courts. Upon such disclosure, the mediation effort will be terminated unless all parties agree to continue in the mediation process.

   b. The same obligation to disclose will apply to disputes referred to mediation which have already been formally filed with an outside authority. That is, the obligation to disclose the complaint applies, and the mediation shall require the affirmative agreement of all parties before it proceeds.

9. The mediator has full authority in all other procedural issues relating to the conduct of mediation meetings.
Assessment

The Coordinating Committee shall formally report the results of its assessment to the bargaining units and the SCSU Administration along with any recommendations. The evaluations of the mediators shall be summarized annually. All confidential information shall be redacted for the purposes of assessment and reporting so that confidentiality will not be compromised.

Final Remark

Since the SCSU Mediation Program represents a cooperative effort between AFSCME, FA, MAPE, MMA, MSUAASF, and SCSU MnSCU Administrators, nothing relating to this program will be grievable under any collective-bargaining agreement, within the confines of applicable laws and state and federal statutes.

Signatures

SCSU President, Roy Saigo

SCSU AFSCME President, Jane Spaude

SCSU FA President, Theresia Fisher

MAPE President, Joe Rolfer

SCSU MMA President, Rod Gerads

SCSU MSUSAASF President, Shahzad Ahmad

5/6/04

5/6/04

May 6, 2004

6 May 2004

May 6, 2004

5/6/04