

The Power of Mediation in Labor Disputes

In today's dynamic work environments, conflicts and disputes are inevitable. Disagreements can arise between employees and management over various workplace policies. They can also involve grievances related to employment conditions, and unresolved conflicts that can disrupt productivity, damage morale, and jeopardize relationships. In such cases, labor mediation emerges as a valuable tool for fostering constructive dialogue, finding common ground, and reaching mutually acceptable resolutions.

In this article, AMCA offers to explore a less expensive, more expeditious, and reliable option to settle various labor disputes: labor mediation.

Understanding Labor Mediation

Labor mediation is a specialized form of alternative dispute resolution designed for the unique dynamics and characteristics of labor disputes. It involves the intervention of a neutral third party, a mediator, who facilitates communication and negotiation between employers and employees or their respective representatives. Unlike traditional litigation, which normally is adversarial in nature and lengthy, mediation prioritizes collaboration, dialogue, and creative problem-solving.

Labor mediation encompasses a range of processes designed to resolve disputes between employers and employees or trade unions. It serves as a valuable tool for addressing both "interest disputes," where parties negotiate the terms of a collective agreement, and "rights disputes," which involve interpreting the terms of an existing collective agreement. By providing a structured and collaborative framework for dialogue and negotiation, labor mediation facilitates constructive resolutions that uphold the rights and interests of both parties. This further promotes a harmonious and productive work environment.

For instance, in 2016, the US Federal Mediation and Conciliation Service (FMCS) oversaw over 11,700 negotiations and actively mediated 3,540 cases of collective bargaining contract negotiations. These cases included both the private and public sectors, with a notable settlement rate of 85.5%. Beyond its core role in mediating labor-management collective bargaining disputes, the FMCS also provides mediators for rights or grievance disputes. Throughout the calendar year, the FMCS mediated 1,670 grievance mediation cases, achieving successful agreements in 1,264 cases, resulting in an impressive 76% success rate.

The Benefits of Labor Mediation

- 1. Preservation of Relationships:** By providing a confidential and non-adversarial forum for resolving disputes, mediation helps preserve relationships between parties.
- 2. Cost-Effectiveness:** Compared to litigation, mediation is often more cost-effective, as it typically requires fewer resources and can be resolved more quickly.
- 3. Flexibility:** Mediation allows parties to tailor solutions to their specific needs and circumstances, rather than relying on universal remedies imposed by a court or arbitrator.
- 4. Empowerment:** Mediation empowers parties to actively participate in the resolution of their dispute, giving them a voice in the process and enabling them to explore creative solutions that may not be available through traditional legal channels.

Implementing Labor Mediation

By encouraging and fostering discussion, dialogue, and collaboration, labor mediation not only addresses immediate concerns but also promotes a positive and productive work environment that leads to long-term success. Below, we outline the key stages of labor mediation:

Initiation: The process of labor mediation at AMCA can begin either when there is a pre-existing agreement between the parties to resolve their dispute through mediation, or when at least one of the parties submits the dispute to the Center by sending a written inquiry.

Commencement: When there is a prior mediation agreement, mediation at AMCA begins when the parties submit a written request. Without such an agreement, mediation starts once the Secretariat confirms in writing that all parties have agreed to mediate following the inquiry of one of the parties.

Meeting Format: The first session of mediation will be scheduled as soon as possible after the approval/appointment of the mediator by the AMCA, but not later than within ten days. The mediator, in consultation with the involved parties, determines the date, time, location, agenda, and other pertinent details for this session.

Legal Representation: Parties can participate either individually or with their representatives. Throughout the process, all parties are expected to engage in good faith, cooperating with both the mediator and each other.

Joint and Caucus Sessions: The mediation can be carried out through joint meetings, separate sessions, or a combination of both. The mediator, with the parties' consent, may seek expert opinions or advice on matters relevant to the mediation process.

Solution Development: The mediator assists the parties in developing potential solutions. Through active engagement and creative problem-solving, the mediator guides parties toward mutually beneficial outcomes that address their underlying interests and concerns.

Agreement Drafting: If mediation concludes amicably, the parties sign an agreement to resolve the dispute amicably. Upon the parties' request, AMCA may offer an opinion on the settlement agreement. Besides the parties, the mediator also signs the settlement agreement, indicating it stems from the mediation process.

Conclusion

Labor mediation offers a valuable alternative to traditional methods of resolving workplace conflicts, providing parties with a collaborative and constructive way to address their differences. By promoting communication, preserving relationships, and empowering parties to find mutually acceptable solutions, labor mediation plays a crucial role in fostering a fair and productive labor environment.

AMCA underscores the critical importance of efficient dispute resolution in labor disputes. The Center acknowledges the inherent challenges stemming from power differentials between employees and employers, which often are large corporate entities. Within traditional adversarial settings, such imbalances often disadvantage individuals. However, mediation offers a structured yet flexible platform that prioritizes fairness and equal representation.

This approach diminishes the pressure and stress typically associated with legal proceedings. By encouraging open communication and mutual understanding, mediation enables parties to address underlying issues comprehensively, leading to more durable and sustainable outcomes. Ultimately, mediation emerges as an exceptionally well-suited format for ironing out wrinkles in labor disputes, offering a structured yet flexible approach that prioritizes collaboration and mutual understanding.

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