



MEDIATIONS | ARBITRATIONS

TEXAS JUSTICE CENTER MEDIATION RULES

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Rule 1 - Definitions

(1) "Case Administrator" means the TJC agent responsible for administering the mediation, including scheduling and appointment of the neutral.

(2) "TJC" means the Texas Justice Center located at 4900 Fournace Pl., Suite 200, Bellaire, Texas 77401.

(3) "Request" means a request for mediation together with the required supporting documents.

(4) "Schedule of fees" means the schedule of fees published by the TJC on its website: www.tjcadr.com.

Rule 2 - Mediation Proceedings

The TJC is authorized to administer mediations that relate to any civil dispute which can be mediated by applicable law, and which the parties consent in writing to submit to the TJC or otherwise have been ordered to mediate at the TJC by a Court of Competent Jurisdiction.

Rule 3 - Application of Rules

(1) These Rules shall apply to any mediation conducted pursuant to Rule 2.

(2) The parties may agree, with consent of the mediator, to modify the application of any of these Rules other than as would violate applicable law or a court order.

(3) If any of these Rules, or any agreement pursuant to paragraph (2), conflicts with a provision of law from which the parties cannot derogate, that provision shall prevail.

(4) The applicable TJC Mediation Rules are those in force on the date of filing the Request.

Rule 4 - Party Representative

Each party may be represented or assisted by agents, counsel, advocates or other advisors, whose names and proof of authority to act shall be promptly communicated to the Case Administrator ("representative(s)").

Rule 5 - Institution of Mediation Based on Prior Party Agreement or Court

Order

(1) If the parties have agreed in writing to mediate pursuant to these Rules, or if the parties have been ordered by a court of competent jurisdiction to mediate at the TJC, any party wishing to mediate a dispute shall file a **Request** with the TJC and pay the administrative fee published in the schedule of fees.

(2) The Request may be filed by one or more requesting parties, or filed jointly by the parties to the mediation.

(3) The Request shall:

(a) identify each party to the mediation and provide its contact information, including email address, street address, and telephone number;

(b) be signed by each requesting party or its representative and be dated;

(c) contain a concise statement of the nature of the dispute and the status of the case if a lawsuit has been filed over the dispute;

(d) contain any proposals or agreements reached by the parties concerning the appointment and qualifications of the mediator and the procedure to be followed during the mediation; and

(e) attach the agreement of the parties to mediate pursuant to these Rules or the court order requiring the parties to mediate.

(4) Upon receipt of the Request, the Case Administrator shall:

- (a) promptly acknowledge receipt of the Request to the requesting party; and
- (b) transmit the Request to the other party upon receipt of the administrative fee.

Rule 6 - Institution of Mediation Absent a Prior Party Agreement or Court Order

(1) If the parties have no prior written agreement to mediate pursuant to these Rules, any party wishing to institute a mediation shall file a Request with the TJC and pay the administrative fee published in the schedule of fees.

(2) The Request shall:

- (a) comply with the requirements in Rule 5(3)(a)-(e);
- (b) include an offer to the other party to mediate pursuant to these Rules; and
- (c) request that the Case Administrator invite the other party to advise whether it accepts the offer to mediate.

(3) Upon receipt of the Request, the Case Administrator shall:

- (a) promptly acknowledge receipt of the Request to the requesting party;
- (b) transmit the Request to the other party upon receipt of the administrative fee; and
- (c) invite the other party to inform the Case Administrator within fourteen (14) days after transmittal of the Request whether it accepts the offer to mediate.

(4) If the other party informs the Case Administrator that it accepts the offer to mediate, the Case Administrator shall acknowledge receipt and transmit the acceptance of the offer to mediate to the requesting party.

(5) If the other party rejects the offer to mediate or fails to accept the offer to mediate within the 14-day period referred to in paragraph (3)(c) or within such other period as the parties may agree, the Case Administrator shall acknowledge receipt and transmit any communication received to the requesting party and shall inform the parties that no further action will be taken on the Request.

Rule 7 - Registration of the Request

(1) Upon receipt of:

(a) the administrative fee; and

(b) a Request pursuant to Rule 5, or a Request and an agreement to mediate pursuant to Rule 6;

the Case Administrator shall register the Request if it appears, on the basis of the information provided, that the Request is within the scope of Rule 2(1).

(2) The Case Administrator shall notify the parties of the registration of the Request, or the refusal to register the Request and the grounds for refusal.

(3) The notice of registration of the Request shall:

(a) record that the Request is registered and indicate the date of registration;

(b) confirm that all correspondence to the parties in connection with the mediation will be sent to the contact address appearing on the notice, unless different contact information is indicated to the Case Administrator; and

(c) invite the parties to appoint the mediator without delay.

Rule 8 - Calculation of Time Limits

Time limits referred to in these Rules shall be calculated from the day after the date on which the procedural step starting the period is taken. A time limit shall be

satisfied if a procedural step is taken on the relevant date, or on the subsequent business day if the date falls on a Saturday, Sunday, or State or Federal Holiday.

Rule 9 - Costs of the Mediation

Unless the parties agree otherwise:

- (a) the fees and expenses of the mediator and the administrative fees and any applicable TJC room or service fees shall be borne equally by the parties (excluding food services, printing services, or equipment rentals); and
- (b) each party shall bear any other costs it incurs in connection with the mediation.

Rule 10 - Confidentiality of the Mediation

(1) All information relating to the mediation, and all documents generated in or obtained during the mediation, shall be confidential, unless:

- (a) the parties agree otherwise;
- (b) the information or document is independently available; or
- (c) disclosure is required by law.

(2) Unless the parties agree otherwise, the fact that they are mediating or have mediated shall be confidential.

Rule 11 - Use of Information in Other Proceedings

A party shall not rely in other proceedings on any positions taken, admissions or offers of settlement made, or views expressed by the other party or the mediator during the mediation, unless the parties agree otherwise.

Rule 12 - Qualifications of the Mediator

- (1) The mediator shall be impartial and independent of the parties.
- (2) The parties may agree that the mediator shall have specific qualifications or expertise.

Rule 13 – Selection of Mediator

Unless the parties have agreed upon a mediator and communicated their choice to the TJC, or upon request of either party, the TJC will send both parties a list of not less than three (3) mediators. Within three (3) days each party will strike any mediators they do not agree to use, and rank the remaining mediators by choice. If a party fails to respond in three (3) days, they shall be deemed to agree to any of the mediators. If all the mediators are stricken, the TJC will send a second list of not less than three (3) mediators. Within three (3) days of receiving the second list each party will strike any mediators they do not agree to use, and rank the remaining mediators by choice. If all the mediators are stricken from the second list, the TJC will appoint a mediator in its sole discretion.

Rule 14 - Resignation and Replacement of Mediator

- (1) A mediator may resign by notifying the Case Administrator and the parties.
- (2) A mediator shall resign:
 - (a) on the joint request of both parties; or
 - (b) if the mediator becomes incapacitated or fails to perform the duties required of a mediator.
- (3) Following the resignation of a mediator, the Case Administrator shall notify the parties of the vacancy. A new mediator shall be appointed by the same method used to make the original appointment, except that:
 - (a) the Case Administrator shall fill any vacancy that has not

been filled within thirty-five (35) days after the notice of the vacancy; or

(b) if a co-mediator resigns and the parties notify the Case Administrator within 45 days after the notice of the vacancy that they have agreed to continue the mediation with the remaining co-mediator acting as sole mediator, no new mediator shall be appointed.

Rule 15 - Role and Duties of the Mediator

(1) The mediator shall assist the parties in reaching a mutually acceptable resolution of all or part of the issues in dispute. The mediator has no authority to impose a resolution of the dispute on the parties.

(2) The mediator shall conduct the mediation in good faith and in an expeditious and cost-effective manner.

(3) The mediator shall treat the parties equally and provide each party with a reasonable opportunity to participate in the mediation.

(4) The mediator may meet and communicate with the parties jointly or separately. Such communication may be in person or in writing and by any appropriate means. Information received by the mediator from one party shall not be disclosed to the other party without authorization from the disclosing party.

Rule 16 - Duties of the Parties

The parties shall cooperate with the mediator and with one another and shall conduct the mediation in good faith and in an expeditious and cost-effective manner.

Rule 17 - Initial Written Statements

If the mediator requires written statements from the parties, the parties shall promptly deliver the same to TJC in the time frame requested by the Mediator. The TJC will then promptly forward to the mediator, and, if the mediator has specified that the statements are not confidential, to the other parties.

Rule 18 – Location of Mediation

Unless (a) all parties agree, (b) the mediator permits, or (c) a party is located more than 75 miles from the TJC or is otherwise unable to attend in person due to valid health reasons, mediation shall take place in person at the TJC.

Rule 19 - Mediation Procedure

- (1) The mediator shall conduct the mediation in accordance with these rules and shall consider the views of the parties and the issues being mediated.
- (2) The mediator may request that the parties provide additional information or written statements.
- (3) The mediator may obtain expert advice with the agreement of the parties.
- (4) The mediator may make oral or written recommendations for the resolution of any issues being mediated, if requested by all parties.

Rule 20 - Termination of the Mediation

- (1) The mediator, or the Case Administrator if no mediator has been appointed, shall issue a notice of termination of the mediation upon:
 - (a) a notice from the parties that they have signed a settlement agreement;
 - (b) a notice from the parties that they have agreed to terminate the mediation;
 - (c) a notice of withdrawal by any party, unless the remaining parties agree to continue the mediation;
 - (d) a determination by the mediator that there is no likelihood of resolution through the mediation; or

(e) fulfilment of the requirements of Rule 13(5).

(2) The notice of termination shall contain a brief summary of the procedural steps, any agreement of the parties, and the basis for termination of the mediation pursuant to paragraph (1).

(3) The notice shall be dated and signed by the mediator or the Case Administrator, as applicable.

(4) The Case Administrator shall promptly email a copy of the notice of termination to each party and deposit the notice in the archives of the TJC. The Case Administrator shall provide additional certified copies of the notice to a party upon request.

Rule 21 – Exclusion from Liability

(1) Neither TJC nor any mediation is a necessary party in judicial proceedings relating to an mediation.

(2) Neither TJC nor any mediator shall be liable to any party for any act or omission in connection with any arbitration conducted under these Rules, except for its/his/her own willful misconduct.

(3) Each party utilizing TJC or TJC mediator(s) agrees to indemnify, hold harmless and provide a defense by a counsel selected by TJC or the arbitrator(s) in case TJC or the arbitrator(s) is (are) joined in a suit arising out of TJC arbitral proceedings.