Proposal for Mediation Process

1. INTRODUCTION

The Los Angeles Mission College Peer Mediation Program is a voluntary program available to all faculty and staff to assist in the resolution of disputes or conflicts between two or more parties. Mediation is a versatile process which can be used as a rapid first intervention to prevent escalation of a dispute or to repair a working relationship. This provides an alternative, confidential process whereby a third party (mediator) facilitates and negotiates a mutually beneficial agreement.

2. Mission Statement

Los Angeles Mission College is committed to encouraging harmonious working relationships between colleagues while respecting the diversity and interdependence of the College. The Peer Mediation Program is designed to promote an honest, collegial, and inclusive decision-making process through creative intervention techniques that work to mutually and confidentially resolve concerns through collaborative problem-solving.

CONCERNS:
Aligned with CBA—specifically discuss options as stated in the CBA
Avoid the alternative language highlighted.
Peer Mediation is not meant to take the place of the grievance procedure and disciplinary Actions
Short and Positive
Support Collegiality and the mission of the college

Volunteer:

3. How does mediation fit alongside other resolution processes?

Peer Mediation is beneficial for general workplace conflict which affects morale between individuals and groups of individuals. If your complaint is one of perceived non-collegiality, peer mediation may be an appropriate option.

- Peer mediation is not meant as a response to supervisory or administrative actions e.g. evaluations, counselling memorandums or any written communications issued pursuant to the supervisor-subordinate relationship involving discipline.
- Complaints of unlawful discrimination and sexual harassment are to be filed with the LACCD Office of Diversity Programs.
- Complaints of contract violations, misinterpretations, and misapplications of the Collective Bargaining agreement* should be referred to your Union representative.

*In some cases following the conclusion of a grievance process, peer mediation may be appropriate as it gives the parties the opportunity to repair their employment relationship and agree how future interactions will be handled.

CONCERNS:
3. WHAT IS MEDIATION?

Mediation is based on the principle of collaborative problem solving, with a focus on the future and rebuilding relationships. This process may improve working relationships between individuals where there has been a misunderstanding or a disagreement. Peer Mediation is a voluntary and completely confidential process whereby participants are given an opportunity to review and examine their concerns and actions as well as those of the other party.

Both parties work with a mediator to achieve a mutually agreeable outcome which is fair, reasonable, and appropriate.

Mediation can be used in a variety of circumstances, for example:

- Misunderstandings / conflict between colleagues
- Misunderstandings / conflict between staff and managers / supervisors
- Communication difficulties

3.4 The Values of mediation (suggest to create a Values section after the Mission Statement)

- Impartiality
- Confidentiality
- Independence
- Equality of Opportunity
- Participation
- Collaboration
- Non-discrimination
- Being non-judgemental

CONCERNS:
Specify what formal process is. Describe what the process is not. Describe a broad frame work of resolutions. Avoid giving clients the idea the process will provide them more authority than they have. Option: the detail can be placed in the agreement to mediate

Volunteer:

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Specify what formal process is. Describe what the process is not. Describe a broad frame work of resolutions. Avoid giving clients the idea the process will provide them more authority than they have. Option: the detail can be placed in the agreement to mediate

Volunteer:
4. GENERAL PRINCIPLES OF MEDIATION

a. Where there is conflict in working relationships, colleagues may choose to participate in mediation as a means of resolution. Mediation is voluntary and staff will not be forced to participate.

b. The scheme is available to all staff members. (It would not normally deal with issues arising between a staff member and a student).

c. Mediation would normally be initiated by the parties following consultation with their line manager or perhaps a Harassment Contact, although self-referral is also an option. Following the referral, the appointed mediators would meet with both parties to ascertain the viability of proceeding with the mediation.

d. The Mediation Co-ordinator in HR will allocate the mediators (subject to their availability) from a list of qualified mediators.

e. The appointed mediators will be independent of both parties and have no vested interest in the outcome.

f. The mediation process is confidential on all sides. The only exception to this rule of strict confidentiality is where there is a potential unlawful act or where there is evidence of serious risk to health and safety. In these circumstances the process will be terminated and the HR Mediation Co-ordinator informed. Information (including documents) may in these cases be supplied to others.

g. As mediation is a confidential process there will be no direct involvement/accompaniment from/with other parties during the mediation process other than in very exceptional circumstances and at the discretion of the mediators.

h. If a referral was made by a third party (i.e. not self referral) that party will be advised when the process has been completed, but not provided with details of the agreement.

i. Agreeing to mediation does not take away an individual's right to access other HR procedures, however, information revealed / discussed during mediation will not normally be admissible in such cases.

j. Once resolution has been achieved, an agreement will be signed by both parties. This remains confidential between the parties and the mediators. If the agreement contains items requiring support from a line manager (e.g. training) both parties must agree how this will be handled and include it in the agreement.

6. ROLES AND RESPONSIBILITIES

6.1 Mediation Co-ordinator

- Act as first point of contact for staff / line managers with potential cases
- Advise above mentioned parties of most suitable course of action
- Answer questions / provide advice in relation to general mediation questions
- Provide participants with a choice of mediators
- Notify and appoint mediators to cases
- Assist in the co-ordination of resources where difficulties arise
- Manage the mediation evaluation process
- Provide Continuing Professional Development for mediators
- Handle complaints relating to the mediation scheme
- Market the mediation services to the community
- Provide updates to the community
7.2 Mediator

- Successfully complete mediation training.
- Be aware of and keep up to date with guidelines in relation to mediation as supplied by the Mediation Co-ordinator.
- Maintain a high quality mediation process, protecting its integrity.
- Employ the principles of equality and diversity throughout the process.
- Complete associated administrative work – e.g. reporting back to the Mediation Co-ordinator for case sign off and statistical reporting.
- Act as a mentor to new mediators.
- Participate in the evaluation process.
- Participate in refresher training as required.
- Manage the mediation process in a professional manner:
  - Listen, reassure, support and advise individuals who have been referred for or sought mediation.
  - Act as an impartial third party, organising and facilitating mediation meetings between members of staff in conflict.
  - Arrange suitable mediation venues and facilities which ensure confidentiality and no interruptions.
  - Provide sessions appropriate to participants e.g. consider time restrictions and access to the service for disabled participants.
  - Provide a safe environment.
  - Uphold ground-rules.
  - Encourage individuals to take charge of their own decisions and to accept responsibility for the consequences of their decisions.
  - Arrange follow up sessions and feedback if necessary.
  - Decide whether a third party should be present at the mediation if requested by the employee. A mediation agreement would be signed by all parties.
- Maintain practice standards:
  - Demonstrate impartiality - ensure both parties are treated equally.
  - Uphold confidentiality.
  - Maintain the credibility of the scheme and the mediator.
  - Be respectful.
  - Act in a non-discriminatory, professional manner, ensuring participants do the same.
  - Uphold the principle of the voluntary nature of mediation.
  - Maintain balance.
  - Maintain consistency.
  - Uphold fairness.
  - Provide clarity in boundaries / process.

Side Note: A mediator has the right to refuse to mediate at any point during the process (e.g. if they feel that an individual has been forced to participate or is attempting to use the mediation to their own advantage) and if they do so should record their reasons on the mediator evaluation form.

7.3 Participants

- When accessing mediation, enter positively into the process with a view to reaching an agreeable outcome.
- When participating in the process, uphold the ground-rules at all times.
o Respect the confidential nature of the process and refrain from communicating any information connected with the mediation to others (unless with specific agreement from both parties, e.g. to approach a line manager for training).

o Understand that any information discussed during mediation cannot be used as part of any other resolution process (e.g. the content of mediation may not normally be disclosed as part of a formal process).

o Abide by and respect the terms of any agreement reached through mediation.

o Notify the line manager immediately if mediation needs to continue beyond expected timescales.

o If mediation takes place as an alternative to a formal grievance and is resolved through the mediation process, it is the responsibility of the employee who raised that grievance to formally write to HR to state the grievance is resolved and closed. Similarly, if the case is not resolved, it is the responsibility of the individual to write to HR to re-institute the grievance procedure.

o Participate in the mediation evaluation process.

7.4 Line Manager

o Understand the benefits of mediation and promote this as a method of conflict resolution where appropriate.

o Take responsibility for people management issues, not referring inappropriate cases to mediation (which would be more appropriately handled by the line manager).

o Recognise the link between the mediation process and other processes, both formal (e.g. organisational policies) and informal (e.g. Harassment Contacts).

o If appropriate, commit sufficient time to talk to the mediator about how the disagreement is affecting the team.

o Ensure sufficient time is provided for the participants to undertake all appropriate steps in the mediation process.

o Support (within constraints of budget) any training / follow up action agreed during mediation, e.g. training / mentoring.

o Respect the confidential nature of mediation. Never seek information from the mediator or press participants to reveal details of a mediation agreement.

o Never coerce parties into mediation.

o Participate in the mediation evaluation process.

o Re-initiate mediation or undertake appropriate action if the conflict deteriorates.

8. MEDIATOR SUPPORT

It is critical that mediators are supported in their role and are made to feel part of a cohesive team. Accordingly, mediators will be supported in the following manner:

o The Mediation Co-ordinator will circulate mediation updates regularly and will be on hand to provide advice and guidance and to ensure that appropriate refresher training is facilitated where needed.

o Three networking sessions will be held each year that will enable mediators to:
  • seek advice on cases (without breaching confidentiality);
  • share experiences;
  • evaluate their own performance in a safe and supportive environment.
If a mediator feels threatened or abused by a mediation participant they will have immediate access to the Mediation Co-ordinator who will investigate and take necessary action.

9. EVALUATION PROCESS

9.1 Purpose of evaluation

- To obtain feedback from participants, mediators and other users of the mediation process.
- To assure the quality of the scheme without jeopardising the confidentiality of disputants.
- To facilitate the development of anonymised case studies that will enhance future disputants understanding of the mediation process.
- To measure the effect on any subsequent reduction in formal cases.

9.2 Evaluation uses

- To utilise feedback in the refinement of the mediation process.
- To utilise feedback for the personal development of mediators and to inform the provision of future training and support mechanisms.
- To identify user's perceptions of distributive and procedural justice.

9.3 Focus of the evaluation

- Are participants satisfied with outcomes?
- Would participants use mediation again?
- Does mediation result in greater / fewer settlements?
- Are disputes resolved more or less quickly than traditional processes?
- What impact does mediation have on outcomes? (more creative?)
- Are certain types of cases more suited to mediation?
- Does mediation result in greater or lesser compliance with settlement agreements?
- Does mediation improve the working environment / improve relationships?
- Does mediation have any negative or unintended consequences?
- Cost / benefit analysis

9.4 Data and evidence for the evaluation

Data will be collated, then anonymised, before analysis from the following sources:

- Evaluations from line managers, participants and mediators
- Details of suggested and implemented changes to the process
- Utilisation data (cases opened / closed / outstanding)
- Types of complaint
- Length of time needed to resolve the dispute (from initial request for mediation)
- Origin of the case
- Job roles of disputants (broad general grades to assure confidentiality)
- Outcome of the mediation (full agreement / partial agreement / no agreement)
### Mediation Request/Referral Form

This form is for use in situations where mediation has been identified as a possible solution to a workplace dispute. The form may be completed by either a line manager of one of the parties or either party themselves. The appropriate line manager/s will be informed that mediation is taking place.

Please complete this form and send it by email to the dedicated email address - mediation. On receipt of this completed form a Mediator will be assigned to the case within 5 working days. The Mediator will be responsible for liaising with both parties within a further 5 working days to make arrangements for the mediation meeting.

Should your case be deemed unsuitable for mediation you will receive a full explanation within 5 working days of your request and advised on the appropriate next steps.

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<tr>
<th>1. Your details</th>
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<td>Name:</td>
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<tr>
<td>Job Title:</td>
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<tr>
<td>Faculty/Department:</td>
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<td>Contact telephone Number:</td>
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<th>2. Details of parties to mediation:</th>
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<td>Employee 1:</td>
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<tr>
<td>Name:</td>
</tr>
<tr>
<td>Job Title:</td>
</tr>
<tr>
<td>Faculty/Department:</td>
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<tr>
<td>Work phone number:</td>
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<tr>
<td>Correspondence Address:</td>
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3. Are both parties to the mediation aware of this request?
   - Yes
   - No

4. If 'No' to Q3 are you happy for them to be approached?
   - Yes
   - No – please indicate how you would like them to be made aware of this request.

5. Please provide a brief description of the issue that you would like addressed via mediation:

6. When did this issue first arise?

7. Have any attempts been made to resolve this issue via other processes/procedures (informally or formally)?
   - Yes – please provide brief details including dates of meetings and outcomes:
   - No:
8. If you are completing this form as a party to the requested mediation please tick the appropriate box below:

<table>
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<tr>
<th>Mediation has been suggested to me by a third party (please indicate who e.g. line manager, union representative, Harassment Contact, GP):</th>
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<th>I have decided to pursue mediation of my own accord:</th>
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9. Please indicate any dates when you will not be able to attend a mediation meeting:

10. If you have any special requirements eg. an interpreter, or any mobility restrictions please indicate below:

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<th>Signed:</th>
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Appendix 2

Agreeing to confidentiality and the principles of mediation

I voluntarily agree to engage in mediation, in a good faith attempt to resolve issues with the participant(s) in this mediation. If issues are not resolved, I understand that any of us may pursue a formal complaint under the organisation’s appropriate policy.

I understand that:
• the mediation can be stopped at any time by myself, the others concerned, or the mediator, and that in this event everyone will remain bound by the confidentiality provisions of this agreement;
• mediation is a confidential process;
• any documents submitted to the mediator and things said during the mediation are for resolution purposes only;
• the mediator will not willingly testify on behalf of any party or submit any type of report on the substance of this mediation;
• no admission of guilt or wrongdoing by any party is implied, and none should be inferred, by participating in this process.

In the event of contested court proceedings taking place, I understand that none of the parties involved in this mediation can call the mediator to give evidence in court.

We will consult with you and seek to obtain your consent prior to the disclosure of any personal information if this information is deemed necessary.

However if any information which has been disclosed falls under the following:

• where there is a legal requirement to disclose information (e.g. the Children Act 1989, Prevention of Terrorism Act 2005 or The Proceeds of Crime Act 2002)
• when there are clear indications that you present a serious risk of harm to yourself or others

I understand that the mediator has no authority to decide the case and is not acting as advocate for any party. By signing, I acknowledge that I have read, understand, and agree to the terms of this Agreement to Mediate.

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<th>Signature:</th>
<th>Name:</th>
<th>Date:</th>
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Appendix 3

Mediation Flowcharts

Conflict – first steps

Disagreement arises between 2 or more parties

Can the parties resolve the issue themselves?

Yes

Line Manager to allow parties to resolve. Offering support or advice where appropriate

Resolved

End

No

Can/should Line Managers support the parties to resolve their conflict

Yes

Line Managers to support parties to resolve

Resolved

End

No

Yes

Role to Mediation Coordinator (HR)

Support Line Manager to resolve

Mediation

Grievance

Disciplinary

Other