

FAQs

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1. What is Government Conflict Resolution Services?

As a government official, you work in an environment where conflict is inevitable. If handled properly, conflict can be a powerful vehicle to clarify communications, to build stronger working relationships and to reach consensus. Government Conflict Resolution Services (GCRS) is a dispute resolution service available to public officials at all levels of government in Ohio. The goal of GCRS is to provide flexible, practical and confidential dispute resolution services that will facilitate the efficient administration of government by resolving and preventing conflict and building stronger working relationships.

2. What dispute resolution services are provided through Government Conflict Resolution Services?

Neutral Evaluation, Mediation, and Facilitation are provided through GCRS.

a. What is Neutral Evaluation?

Neutral evaluation is a process in which the parties to a dispute present their claims or defenses, and describe the principal evidence on which their claims or defenses are based, to a neutral third party. The neutral third party may gather additional information, if necessary. After hearing each party's case, the neutral third party shares his/her impressions about the strengths and weaknesses of each case. The neutral third party may then assist the parties in exploring possible solutions to their dispute.

b. What is Mediation?

Mediation means a process in which a neutral party assists in the constructive exchange of communication and negotiation between or among individuals to help them reach a voluntary agreement regarding their dispute. There are different styles of mediation such as transformative, facilitative, and evaluative mediation. GCRS utilizes the facilitative style of mediation where the mediator asks questions; validates and normalizes the parties' points of view; searches for interests underneath the positions taken by the parties; and assists the parties in finding and analyzing options for resolution. The mediator is in charge of the process, while the parties are in charge of the outcome.

c. What is Facilitation?

Facilitation is a process that focuses on the tasks needed to run a productive and impartial meeting. In facilitation a neutral party (the facilitator) moderates discussions by ensuring the fluid and orderly exchange of information and ideas from all participants. Facilitation is primarily concerned

with assisting individuals in refining their communication and organizational skills so that they may learn to work more efficiently with one another in a group setting.

3. What are the benefits of Government Conflict Resolution Services?

GCRS provides many benefits to those interested in using its services. Below are listed some of the benefits that each GCRS dispute resolution process has to offer:

a. What are the benefits of neutral evaluation?

Neutral evaluation allows parties to gauge the likely success or failure of their case in a setting that is conducive to the informal and unpressured exchange of information. The rules of evidence do not apply to neutral evaluation. Not only does neutral evaluation save time and money, it allows parties to examine their case from an objective point of view. Obtaining a candid analysis of one's case can provide the foundation for exploring creative options and resolutions.

b. What are the benefits of mediation?

While mediation does not guarantee results, it does offer benefits over traditional means of dispute resolution, such as litigation. Generally speaking, mediation provides a timelier and less expensive way of resolving disputes; when an agreement is reached, parties tend to be more satisfied and more willing to comply with its terms than with solutions imposed by a third-party decision-maker; mediated agreements can be tailored to a particular situation and can include both legal and extra-legal matters; mediation provides greater control over the outcome of a dispute and provides more predictability in terms of gains and losses; because mediated agreements can address the interests of all parties, mediation aides in the preservation of relationships that may not be possible in a win or lose process, such as litigation; mediation can also make the termination of a relationship more amicable; mediated agreements typically withstand the test of time, and should subsequent disputes ensue, parties are more likely to utilize a collaborative approach to problem-solving to resolve their differences than to pursue an adversarial forum.

c. What are the benefits of facilitation?

Facilitation promotes conflict prevention by providing for focused and organized discussions. Having a facilitator oversee a meeting's process allows participants the freedom to concentrate on substantive issues, saving time and ensuring quality exchange of information and ideas. Facilitators can manage the team dynamic to ensure a collaborative, supportive environment in which to reach consensus on pressing issues.

4. How do I obtain services through Government Conflict Resolution Services?

GCRS is provided through the Dispute Resolution Section of the Supreme Court of Ohio. To request services, contact the Dispute Resolution Section via telephone at 614.387.9420 or via email at DisputeResolution@sc.ohio.gov. Or, use the Request Services tab on the GCRS home page

5. What kinds of disputes does Government Conflict Resolution Services address?

GCRS can assist in the resolution of any conflict involving public officials at the state, county or local levels of government. Examples of disputes which may benefit from GCRS include fiscal, budget, operations management (planning, logistics, materials, risk management, internal controls, organizational design), public records, policy (administrative rule, internal procedures), facilities maintenance and zoning.

6. How much does Government Conflict Resolution Services cost?

GCRS is provided at no cost to public officials.

7. When can Government Conflict Resolution Services be utilized?

GCRS can be utilized prior to or after the filing of a lawsuit in any court in Ohio, except the Supreme Court of Ohio. The Supreme Court of Ohio, through its Dispute Resolution Section, provides mediation services to Supreme Court litigants. If you wish to attempt to mediate a case filed with the Supreme Court of Ohio, S.Ct.Prac.R. 19.01 outlines the procedure for referring cases to mediation.

8. Is Government Conflict Resolution Services available for cases between a public official and a private citizen?

No. GCRS can only assist in the resolution of conflicts involving public officials at the state, county or local levels of government.

9. Who selects the third-party neutral for neutral evaluation, mediation and facilitation?

Supreme Court of Ohio Dispute Resolution Section staff will engage an appropriate third-party neutral after speaking with the parties and/or their respective representatives.

10. How are the services conducted?

GCRS can be conducted in-person at the Supreme Court of Ohio, at a location designated by the parties or via telephone, whichever method is preferred by the parties. If the parties choose to have their service provided via telephone, the third-party neutral will initiate the telephone conference.

11. Where are the services conducted?

The Dispute Resolution Section staff will work with you to determine a location that is agreeable and convenient for all participants.

12. Which service should I choose? Does the situation call for neutral evaluation, mediation or facilitation?

Neutral evaluation is appropriate in situations where the disputants are far apart in their views on how the law applies to the case in question or what the case is worth. In these instances, an evaluation of the dispute that seeks to determine best and worst case alternatives can direct parties towards a negotiated agreement.

Mediation is appropriate when parties wish to resolve conflicts among themselves, but where a breakdown in communication has adversely affected their ability to work with one another to reach a decision.

Facilitation is appropriate for stimulating productive and collaborative discussion and problem solving in the absence of overt conflict, but where there is potential for conflict. Facilitation is usually centered on discussing a strategic problem. For example, a facilitated session might be used to develop initiatives to achieve a specific objective.

13. Who attends a neutral evaluation session?

Neutral evaluation sessions are typically attended by the parties to the dispute and their attorneys, if represented by counsel.

14. Who attends a mediation session?

The parties to a dispute attend the mediation sessions along with any support person they wish to include.

15. Who attends a facilitation session?

The attendees of a facilitation session are those individuals invited to participate in the discussion.

16. What does a neutral evaluator do?

A neutral evaluator listens to a party's claims and defenses and reviews the documentary evidence on which they are based. After considering the parties' positions, the neutral evaluator will provide the parties with an informal opinion on the strengths and weaknesses of their case.

17. How long will neutral evaluation take? Will there be more than one session?

The length of a neutral evaluation session depends upon the complexity of the issues involved. Typically, however, only one session is conducted. After the session, the neutral evaluator will need time to formulate his/or her opinion. Unless the parties and neutral evaluator agree to another timeline, a written evaluation is typically rendered within 14 days after the conclusion of the neutral evaluation session.

18. What happens after the neutral evaluator's opinion is issued?

Depending upon the opinion, parties may wish to resolve their dispute by participating in another service offered through GCRS or they may choose to proceed to litigation. Parties also have the option of resolving the matter amongs themselves without the assistance of a third party neutral.

19. Does the Uniform Mediation Act apply to neutral evaluation?

No. As a consequence, privilege does not apply to neutral evaluations. Confidentiality does not apply to neutral evaluations unless the parties sign a confidentiality agreement.

20. What does a mediator do?

GCRS mediators utilize the facilitative style of mediation where the mediator asks questions; validates and normalizes parties' points of view; searches for interests underneath the positions taken by parties; and assists the parties in finding and analyzing options for resolution. The mediator is in charge of the process, while the parties are in charge of the outcome. In the session, the mediator is a neutral third party; not an advocate for either party. A mediator does not provide legal advice nor does a mediator render a decision.

21. Who can “participate” in a mediation session?

By law, anyone who attends the mediation may participate. Participation in mediation is outlined in the [Ohio Revised Code Uniform Mediation Act Section 2710.09](#) which states, “An attorney or other individual designated by a party may accompany the party to and participate in a mediation.” It further states that “A waiver of participation given before the mediation may be rescinded.” However, your attorney is the only person who can give you legal advice.

22. How long will the mediation take? Will there be more than one session?

The length of mediation sessions depends upon several factors, such as the number of participants involved, the complexity of the issues to be mediated and the relationship dynamics among the participants. The mediator will work with you to determine an appropriate length of time for your mediation session(s). The need for subsequent sessions will depend upon the preparation levels of the participants. Being fully prepared for the mediation session minimizes the requirement for an additional session due to a lack of information. Therefore, it is important for participants to exchange information prior to the scheduled mediation session and to share settlement demands prior to the scheduled mediation session. Sometimes additional sessions are needed to explore settlement options or to work through the logistics of potential settlements.

23. What happens if we reach a mutually acceptable agreement during mediation?

Typically, if a voluntary agreement is reached, the parties memorialize the agreement so that it complies with the [Ohio Revised Code Uniform Mediation Act Section 2710.05 Exceptions to Privilege – Partial Admission of Nonprivileged Communication](#). Methods to memorialize the agreement include: a written agreement that is signed by all parties or an agreement that is tape recorded with all parties identifying themselves and indicating their consent to the agreement. It is recommended that the parties establish specific timelines for all components of the agreement.

24. Who maintains the settlement agreement?

The parties each maintain in their possession an original settlement agreement. A copy of the settlement agreement will be forwarded by the mediator to the Dispute Resolution Section of the Supreme Court of Ohio. This copy will be used for statistical purposes only and will remain confidential. The Dispute Resolution Section of the Supreme Court of Ohio will not maintain original settlement agreements.

25. Are communications privileged?

Depending upon the dispute resolution process chosen, communications may or may not be privileged.

Mediation communications, as defined by the [Ohio Revised Code Uniform Mediation Act Section 2710.01 \(B\)](#), include a statement, whether oral, in a record, verbal, nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator. The Uniform Mediation Act provides that mediation communications are not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided in [Section 2710.04 of the Ohio Revised Code](#). This encourages open and honest communications between the parties which increases the probability of a successful outcome.

Facilitation and early neutral evaluation are not governed by the Uniform Mediation Act. Therefore, the Uniform Mediation Act does not attach a privilege to communications occurring within those processes.

26. Are communications confidential?

Communications occurring during dispute resolution processes offered through Government Conflict Resolution Services (GCRS) are not automatically confidential. If confidentiality is desired by the participants, then the following options are available:

1. If none of the participants constitute a “public body,” as defined under R.C. 121.22, and the chosen dispute resolution process is mediation then confidentiality is governed by §2710.07 of the Uniform Mediation Act, which states that mediation communications are confidential to the extent:
 - a. Agreed by the parties;
 - b. Provided by other sections of the Revised Code; or
 - c. Provided by rules adopted under any section of the Revised Code.

In the context of GCRS, mediation participants have the option of signing a written confidentiality agreement prior to the commencement of mediation. The parties may draft their own confidentiality agreement or they may use the confidentiality agreement provided through GCRS, which can be found on the Supreme Court of Ohio’s website. Dispute resolution processes, such as facilitation and early neutral evaluation are not governed by the Uniform Mediation Act, but nonetheless, may be protected by confidentiality agreements.

2. If one or more of the participants constitutes a “public body,” as defined under R.C. 121.22, then confidentiality can be ensured by either:
 - a. Not convening a meeting of a public body; or
 - b. Convening an executive session pursuant to R.C. 121.22(G). For example, R.C. 121.22(G)(3) permits a public body to meet with their attorney to discuss disputes involving the public body that are the subject of pending or imminent court action. See also *Findlay Publishing Co. v. Hancock Cty. Bd. of Comm.*, 80 Ohio St. 3d 134.
3. If a member of the public makes a public records request, documents submitted to the Supreme Court of Ohio or generated and kept by another public entity may be subject to disclosure under R.C. 149.43. The only dispute resolution process that protects documents from disclosure is mediation. Pursuant to R.C. 149.43(A)(i), a public record does not include records containing information that is confidential under R.C. 2710.03 (mediation privilege). Participants are advised to consult with an attorney to determine what constitutes a public record subject to disclosure under R.C. 149.43.

27. What does a facilitator do?

A facilitator assists individuals in focusing on the content and process of their meetings. By providing focused guidance, a facilitator can help participants to better understand their goals and how to work together towards reaching them. The facilitator may take notes on key topics of discussion and may periodically summarize the discussion to ensure that everyone understands each other. Most importantly, the facilitator maintains civility and keeps the process focused and organized so that participants may concentrate on the substantive content of their discussions.

28. How long will facilitation take? Will there be more than one session?

Facilitations are typically scheduled for the amount of time allotted by the organizer of the meeting. It is recommended, however, that facilitations not exceed two to three hours. The need for additional sessions may depend upon several factors, such as the subject matter of the discussions, the number of participants and organizational deadlines.

29. Does the Uniform Mediation Act apply to facilitations?

No. As a consequence, privilege under the Uniform Mediation Act does not apply to facilitations. Confidentiality may apply to facilitations if the parties sign a confidentiality agreement.

30. What happens if we cannot settle?

If the parties agree to negotiate further, the third-party neutral can schedule a follow-up session. Alternatively, the case could ultimately go forward in a court of law or the parties could agree to participate in another service offered through GCRS.