

APPOINTING MEDIATORS

INTRODUCTION

Interest or rights disputes can often be resolved with the assistance of a mediator. Frequently, mediation is a requirement before a party can ask for an arbitrator to be appointed. See: [[Appointing an Arbitrator, Chapter 19\(g\)](#)]. Mediation is also a requirement before a strike or lockout vote can be taken under the Code. See: [[Section 75\(3\)](#)]. This policy discusses:

- appointing mediators under the [Labour Relations Code](#);
- appointing mediators under the [Public Service Employee Relations Act](#); and
- appointing mediators under the [Police Officers Collective Bargaining Act](#).

Sample letters are available in Section 31(o).

APPOINTING A MEDIATOR UNDER THE CODE

Informal Mediation

Section 64 allows parties to request the Director of [Mediation Services](#) provide the services of a mediator to informally assist with interest disputes. This request can come any time after the commencement of collective bargaining. Such requests are processed by Mediation Services.

Formal Mediation

Section 65(1)(a) allows either or both parties to request that the Director of Mediation Services appoint a mediator to assist with interest disputes. Section 65(2)(a) states that upon receipt of a request, the Director **may** appoint a mediator. In contrast, Section 65(1)(b) allows the Minister to require the Director to appoint a mediator. Section 65(2)(b) states that the Director **shall** appoint a mediator in this case. These requests are processed by Mediation Services.

APPOINTING A MEDIATOR UNDER PSERA

Section 28(1) of PSERA allows the Board (on its own motion) or at the request of either party to appoint a mediator to assist the parties to resolve an interest dispute. Upon receiving an application, notify the other party if the applicant did not serve the application on them.

The Director of Settlement contacts the parties involved and asks them if they have a preference for a mediator. If agreement on a mediator is not possible, the Director of Settlement selects an appropriate mediator for the dispute.

APPOINTING A MEDIATOR UNDER POCBA

Section 7(1)(a) of the [Police Officers Collective Bargaining Act](#) allows either or both parties to an interest dispute to request the Director of Mediation Services to appoint a mediator. Section 7(2)(a) states that upon receipt of a request, the Director **may** appoint a mediator. In contrast, Section 7(1)(b) allows the Minister to require the Director to appoint a mediator. Section 7(2)(b) states that the Director shall appoint a mediator in this case.

Section 7(1) allows these requests only during an open period. In Section 1(j);

- 1(j) "open period" means, with respect to a municipality and a bargaining agent
 - (i) if no collective agreement is in effect, any time, or
 - (ii) if a collective agreement is in effect, any time after notice to commence collective bargaining is served under section 5;

These requests are processed by [Mediation Services](#).