



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

**FREQUENTLY ASKED QUESTIONS
on the Mediation Proceeding**

1. **What is mediation?** It is an alternative form of dispute resolution in which a mediation officer facilitates communication and negotiation and aims to assist the parties in reaching a Mediated Settlement Agreement (MSA) regarding a dispute.¹
2. **What happens if we decide to settle?** Upon settlement, the parties will execute and sign an MSA which will be submitted to the Commission En Banc for confirmation. A confirmed MSA shall have the effect of a decision or judgment on the complaint and shall be enforced in accordance with the NPC's rules and issuances.²
3. **What is a Mediated Settlement Agreement (MSA)?** An MSA is a binding legal contract containing all the terms and conditions proposed, negotiated, and mutually accepted by both parties. The Mediation Officer shall certify that the contents of the agreement have been explained, understood, and mutually agreed upon by the parties, and that the provisions are not contrary to law, public policy, morals, or good customs. An MSA has the force and effect of law between the parties.³
4. **What are the advantages of mediation?** Mediation is relatively quick and inexpensive. It allows flexible and tailor-fitted remedies that may not otherwise be available in regular complaint proceedings. Further, it allows the parties to choose a convenient time and date for mediation conferences, subject to the availability of the Mediation Officer. Conferences can be held in person or via online telecommunication platforms. In accordance with Rule VI, Section 12 of the 2021 Rules of Procedure, it also gives the parties a degree of autonomy in coming up with solutions and in deciding on their settlement agreement, provided that the proposed terms and conditions are not contrary to law, public order, public policy, morals, or good custom.⁴
5. **Who can enter into mediation?** Parties to a complaint filed before the NPC have the option to apply for mediation.⁵

¹ NPC Circular No. 2021-01, Rule I, Sec. 4(k).

² Ibid, Rule VI, Sec. 12.

³ Ibid, Rule VI, Sec. 12.

⁴ Ibid, Rule VI, Sec. 12.

⁵ Ibid, Rule IV, Sec. 2.

6. **What happens to my case if I apply for mediation?** Upon the issuance of an Order to Mediate, the complaint proceedings shall be suspended pending the outcome of the mediation proceedings.⁶
7. **How can I apply for mediation?** During the preliminary conference, or at any stage of the proceedings before a decision has been rendered by the Commission, the parties, by mutual agreement, can jointly file an Application for Mediation manifesting their commitment and willingness to engage in mediation. A single party cannot unilaterally apply for mediation. Both parties must jointly file an application for mediation.⁷
8. **Who is a mediation officer?** A mediation officer refers to a member of the NPC's Legal Division assigned or designated to conduct mediation.⁸
9. **What is the role of a mediation officer?** A mediation officer is a neutral and balanced facilitator who guides discussions and assists the parties towards the settlement of a dispute. A mediation officer is not a judge. Mediation officers do not pass judgment upon the issues in a case. A mediator encourages and promotes a casual, friendly, and informal atmosphere where parties freely communicate in a comfortable environment.
10. **Who is a mediation support officer?** A mediation support officer is a member of the NPC's Legal Division who assists and aids the mediation officer in the conduct of mediation proceedings.
11. **How is mediation different from complaint proceedings?** In complaint proceedings, the NPC conducts a formal investigation with respect to a complaint filed by a data subject for potential violations of the Data Privacy Act of 2012 (DPA). In investigating the circumstances surrounding the potential privacy violation, the investigation officer may require the parties to submit memoranda and additional evidence, including the production of witnesses. Mediation proceedings are less formal in nature. It allows the parties to be open about stating and communicating their respective positions in a safe and neutral setting. Mediation is purely voluntary, and parties can withdraw from it any time for any reason.
12. **How long does the mediation process take?** The initial mediation period is sixty (60) days from the date of the preliminary mediation conference. This may be extended by the mediation officer for another thirty (30) days for good cause shown. Sometimes, a case can be settled with only one or two mediation conferences.

⁶ Ibid, Rule VI, Sec. 4.

⁷ Ibid, Rule VI, Sec. 2.

⁸ Ibid, Rule I, Sec. 4(1).

Ultimately, the period of mediation for a particular case depends upon the parties and their willingness and sincerity in resolving the dispute.⁹

13. **What happens during a mediation conference?** Mediation conferences are guided discussions where parties can talk and explore possibilities to amicably settle their dispute. Parties alternately stipulate, propose, request, or offer solutions in an effort to negotiate and compromise for the settlement of the dispute.
14. **What matters should not be discussed during mediation?** Mediation proceedings do not pass judgment on the merits of the case. Mediation officers do not determine who is at fault under the DPA. Mediation focuses on exploring solutions to resolve the dispute.
15. **Do I need a lawyer during mediation?** Lawyers are not necessary nor required in mediation. However, parties are not prevented from engaging their own lawyers to represent them in mediation proceedings. Parties can ask their lawyers to attend mediation conferences, but their role is limited to that of an advisor and consultant to their clients.¹⁰
16. **Do I need to personally appear during mediation?** Individual parties are required to personally appear during mediation conferences. Representatives of parties can attend mediation conferences provided they are authorized by a special power of attorney. If the party being represented is a partnership, corporation, association, or government agency, the representative must be authorized by a notarized Secretary's Certificate or a Board Resolution with authority to offer, negotiate, accept, decide, and enter into a mediated settlement agreement.¹¹
17. **Can I use information divulged during mediation for other purposes?** Mediation proceedings are private and confidential. Any information divulged or revealed during mediation shall be inadmissible for any purpose in any proceeding, unless otherwise specifically provided by the law. However, evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its use in mediation.¹²
18. **What is a separate caucus?** As may be necessary, the mediation officer may hold separate caucuses or meetings with each party to enable a determination of their real interests. Both parties must consent to the holding of separate caucuses. All parties are given equal time and opportunity to ventilate their interests and motivations.¹³

⁹ NPC Circular No. 2021-01, Rule VI, Sec. 11.

¹⁰ Ibid, Rule VI, Sec. 9.

¹¹ Ibid, Rule VI, Sec. 7.

¹² Ibid, Rule VI, Sec. 17.

¹³ Ibid, Rule VI, Sec. 6.

19. **What happens if I fail to appear in a mediation conference?** The mediation officer may require the absent party to explain why he or she should not be required to pay the costs of the other party in attending the mediation conferences. If any of the parties fail to appear without prior notice and a justifiable reason for two (2) consecutive mediation conferences, the mediation officer may terminate the proceedings and refer the same for the resumption of the complaint proceedings.¹⁴
20. **What terms and conditions can I propose during mediation?** Parties may stipulate, propose, request, or offer any terms, conditions, solutions or conditions as long as it is legal, fair, and reasonable. Monetary settlements are not the only solutions to disputes. In other words, solutions or conditions stipulated, proposed, requested, or offered must be realistic and workable.
21. **What happens if we decide not to settle?** A Notice of Non-Settlement of Dispute (NNS) shall be issued by the Mediation Officer.¹⁵ The case is then returned to the Complaints and Investigation Division for the resumption of complaint proceedings.¹⁶
22. **What is a Notice of Non-Settlement of Dispute (NNS)?** An NNS is a document issued by the mediation officer declaring the mediation unsuccessful and terminating the proceedings.¹⁷
23. **Can we still apply for mediation despite an unsuccessful previous attempt to settle?** Yes, parties can still apply for mediation even after the NNS has been issued and after complaint proceedings have resumed. However, this option will no longer be available once a decision has been rendered by the Commission En Banc.¹⁸
24. **Are there any fees imposed by the NPC for the conduct of mediation?** As of now, the NPC does not charge mediation fees. Please visit privacy.gov.ph for any updates on the imposition of fees.
25. **Who can I contact if I have other concerns or inquiries regarding mediation?** For concerns or questions, please send an email to npcmediation@privacy.gov.ph

¹⁴ NPC Circular No. 2021-01, Rule VI, Sec 8.

¹⁵ Ibid, Rule VI, Section 15

¹⁶ Ibid, Rule VI, Sec. 16.

¹⁷ Ibid, Rule VI, Section 15.

¹⁸ Ibid, Rule VI, Sec. 1.