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# **MEDIATOR ARBITRATOR**

## Terms of Reference

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## **Mediator and Arbitrator Terms of Reference**

The Dispute Resolution Board (DRB) seeks Mediators and Arbitrators interested in joining the Roster. Interested Mediators and Arbitrators will provide their CVs to the DRB and upon request provide reference letters and/or examples of decisions.

The DRB may provide training and mentorship to interested persons joining the DRB Roster.

### **MEDIATORS**

The DRB will screen potential Mediators with the discretion of accepting combinations of the following criteria:

- Possess or willing to obtain certification in mediation from a National or International institute and/or have practical experience in mediation procedures.
- Have experience in conflict resolution, negotiations, and communications.
- Have experience chairing mediations or willingness to gain further experience by observing or assisting mediation.
- Have experience with, or be agreeable to, working with the parties of a dispute to consider incorporating Yukon First Nation traditional methods and values where appropriate.
- Have a working knowledge of the history of Yukon First Nations settlement and Self-Government Agreements or willingness to take the Yukon First Nations 101 Yukon University course.

Mediators will have demonstrated competency in the areas of:

- ✓ administrative skills - the ability to organize and conduct the practice of mediation in an efficient and effective manner.
- ✓ interpersonal skills – the ability to conduct the mediation process in a manner which engenders mutual respect, honesty, and dignity between all those involved, to communicate effectively, practice active listening and assist others to do so.
- ✓ the ability to remain impartial and independent.
- ✓ facilitation skills – the ability to conduct the mediation process using fair, flexible procedures to maximize group effectiveness.
- ✓ evidence management skills – the ability to deal with the quantity and quality of complex factual evidence in a manner which facilitates the identification and analysis of relevant issues.
- ✓ writing skills – the ability to effectively communicate a written logical summary report using clear, concise language appropriate to the Parties.
- ✓ procedural skills – the ability to understand jurisdiction, the negotiating process, recognize the nature of the dispute and establish a clear understanding concerning the process with and between the parties.
- ✓ the ability to help the parties make their own informed decisions with respect to mediation and settlement alternatives.

## ARBITRATORS

The DRB will screen potential Arbitrators with the following criteria:

- Possess certification in arbitration from a National or International institute
- Have practical experience in arbitration procedures.
- Have experience in conflict resolution, negotiations, and communications.
- Have experience chairing arbitrations or willingness to gain further experience by observing or assisting arbitration.
- Have experience with, or be agreeable to, working with the parties of a dispute to consider incorporating Yukon First Nation traditional methods and values where appropriate.
- Have a working knowledge of the history of Yukon First Nations settlement and Self-Government Agreements or willingness to take the 1-day YFN 101 Yukon University online course.

Arbitrators will have demonstrated competency in the areas of:

- ✓ administrative skills - the ability to organize and conduct the practice of arbitration in an efficient and effective manner.
- ✓ interpersonal skills – the ability to conduct the Arbitration process in a manner which engenders mutual respect, honesty, and dignity between all those involved, to communicate effectively, practice active listening and assist others to do so.
- ✓ the ability to remain impartial and independent.
- ✓ facilitation skills – the ability to conduct the Arbitration process using fair, flexible, and effective procedures.
- ✓ evidence management skills – the ability to deal with the quantity and quality of complex factual evidence in a manner which ensures proper record is kept of submissions and evidence.
- ✓ writing skills – the ability to effectively convey a written decision to the Parties in a fair logical manner using clear, concise language appropriate to the Parties.
- ✓ procedural skills – the ability to understand jurisdiction, to reach a principled decision determining the rights and liabilities of the parties and expound that decision in the form of a reasoned award.

A mandatory requirement prior to engagement with the DRB is proof of Errors and Omissions Insurance with a minimum limit of One Million Dollars.

## **OTHER ARRANGEMENTS**

Mediators and Arbitrators will declare any potential conflict of interest to the parties prior to appointment. A pre-mediation/pre-arbitration interview will be conducted as part of the selection process and conflict of interest is covered through the interview.

To assist individuals in gaining more experience with the Yukon land claims settlement issues, the DRB asks the Mediators and Arbitrators to consider allowing less experienced local Mediators and Arbitrators the opportunity to assist with the process where circumstances allow and with the consent of the parties. The trainee Mediator or Arbitrator will be bound by rules of confidentiality and required to sign a non-disclosure agreement.

The DRB Roster members are required to provide an updated bio and fee ranges yearly to assist the parties of a dispute in choosing a Mediator or Arbitrator suitable for the issues. The DRB will contact members on an annual basis to obtain updated bio's, fee structures, an Insurance Declaration, and any other information that may be applicable to their availability as a mediator/arbitrator.

Roster members may at any time withdraw from the DRB Roster by providing written notice.

The DRB Mediation or Arbitration Rules of Procedure can be found at the website [www.drbyukon.ca](http://www.drbyukon.ca) or by request to email [drb.ufa@northwestel.net](mailto:drb.ufa@northwestel.net).