



46TH ANNUAL INDIANA CONSORTIUM

of

STATE AND LOCAL HUMAN RIGHTS AGENCIES CONFERENCE

PRESENTED *by:*



MOCK MEDIATION

SCENARIO

MEDIATION SCENARIO

- The complainant is a female employee of a Big Corp. She has been in the role of administrative assistant for Big Corp for about 15 years. She has always performed diligently in her role, always receives glowing evaluations and year-end bonuses based on her performance.
- In addition to her daily administrative functions, she assists the company secretary during Big Corp's board meetings.
- There are 4 other administrative assistants (2 males and 2 females) who assist the board. Their responsibilities include helping with the compilation of meeting materials, preparing the board room for meetings & being present at meetings to provide support when needed.

MEDIATION SCENARIO

- Miss Baker like several other employees of the agency, has been given a cell phone in order to make it easy for agency officials to contact them by referring to a corporate directory.
- 10 months ago, the chairman of the board retired and was replaced by Mr. Smith. When Mr. Smith was introduced at the last board meeting, the corporate directory with staff numbers was shared with him.
- Two days after the meeting, Ms. Baker received a message asking her to meet the board chairman at Starbucks at 7pm. Whilst this was a little out of the ordinary considering the time of day, Ms. Baker did not sense any danger especially because of her role and the fact that she had on several occasions stayed at work till 9:30 pm for board meetings.

MEDIATION SCENARIO

- She anticipated that there might be an emergency requiring her assistance.
- When she arrived at Starbucks, she realized the chairman was alone, seated in an isolated section of the café. She joined him, he asked if she wanted a drink, she declined same, he then commented on how good she looked, and added that the smell of her perfume was sensual. Ms. Baker was not sure how to react, so she ignored his comments and asked him about the business for the day. He responded that he merely wanted to see her and would like to take her out for drinks and dancing.
- Ms. Baker was very surprised. She rose at once from her seat and told him she had a lot of work to do at home

MEDIATION SCENARIO

- As she walked past his seat, he stretched out his hand and held her back, she tensed up and tried to bring some distance between them but the chairman insisted on giving her a hug before she left the café.
- On her way home, Ms. Baker called her HR manager and told her what had happened, adding that the incident made her uncomfortable. She also told her supervisor at work the following morning.
- At the next board meeting, Ms. Baker made it a point to avoid the board chairman, and reported the incident to another member of the board who happened to have worked as an FBI Investigator in the past. All the superiors to whom she reported this incident told her they would get back to her with some feedback and next steps but she heard nothing from them.

MEDIATION SCENARIO

- The next three months were very uncomfortable for Ms. Baker, the chairman sent inappropriate text messages to her daily and started stalking her.
- She reported these incidents to her HR Manager, her supervisor and the board member who used to be an FBI Agent. Her supervisor then called her into the HR director's office and asked her to hand over her work phone. After that she was told to go home and not return to work for 2 days.
- Ms. Baker was surprised especially because 2 years ago, John Brown, one of the administrative assistants, had been harassed in a similar manner by a female board member who was forced by Big Corp to resign. Mr. Brown's cell phone was never taken away from him, neither was he told to go home for 2 days without reason.

MEDIATION SCENARIO

- Before she left the HR Director's office, Ms. Baker told her supervisor in the presence of the HR Director that she had filed a sexual harassment and discrimination claim against the company a week after the incident at Starbucks.
- The following day Ms. Baker received a phone call from HR informing her that she had been terminated because she was causing too much trouble. The HR Director informed her that they could not afford to have people like her who run to civil rights agencies working on their staff. Ms. Baker then filed a second complaint with local civil rights agency, alleging retaliation

MEDIATION SCENARIO

- Investigations into the complaint are currently ongoing.
- The Civil Rights Agency has reached out to both parties to find out if they are interested in settling this claim via mediation.
- The parties have agreed to mediate and the in person mediation session is to start in 10 minutes.

MEDIATION SCENARIO

- You will be divided into 3 groups
- Group A Mediators
- Group B Corporate Office & Board of Directors (FBI Agent, HR Director, Supervisor etc)
- Group C Ms. Baker

MEDIATION SCENARIO

Instructions

- Each Group has a list of interests that they bring to the table.
- Each group has a number of leverage points that they may use to their advantage during the mediation session. The leverage points have not been shared with all participants. Each group only has access to its own leverage points.
- You will get the opportunity to mediate for 25 minutes. If you are able to settle the claim, draft a memorandum of settlement terms to be converted into a settlement agreement for the parties' signatures. Remember to use all the techniques covered in the training. Be creative. Good Luck!!!

MEDIATION SCENARIO

Group A	
Interests/Priorities	Leverage
Settle Claim	Ms. Baker is willing to retire
Provide Training	Ms. Baker wants interim health insurance
Harassment Policy Update	FBI agent concerned about public image
Standard Reporting Forms	HR Director concerned about professional reputation
Periodic compliance updates	Ms. Baker familiar with Big Corps budget
Confidentiality	Ms. Baker retained inappropriate text messages
Other potential reliefs that you may consider during mediation process	
<ol style="list-style-type: none"> 1. Reference letter 2. Transfer to another location 3. Placement support 4. Payment of health premiums during transition period 5. Tuition Reimbursement for further training 	

MEDIATION SCENARIO

Group B

Interests/Priorities	Leverage
Settle claim for less than \$10, 000	Need in-house training
Complainant to retire	Need harassment policies
No policy changes	Planning to retire board chair
No staff sanctions	Willing to transfer/retire Ms. Baker
No training	Willing to fire board chairman
Confidentiality	Concerned about negative publicity
No rehire clause	

Other potential reliefs that you may consider during mediation process

- Reference letter
- Transfer to another location
- Placement support
- Payment of health premiums during transition period
- Tuition Reimbursement for further training

MEDIATION SCENARIO

Group C	
Interests / Priorities	Leverage
Settle claim for more than \$100,000	Aware of Big Corps Budget
Re-instatement /promotion	Aware of FBI agent's fear
Apology	Retained inappropriate texts
Sanctions for chairman	Mr. Brown was not fired for reporting complaint
Sanctions for corporate staff	Familiar with rehire policies
Confidentiality	
HR Record revision	

MEDIATION SCENARIO

Reliefs that you may consider during mediation process

1. Reference letter
2. Transfer to another location
3. Placement support
4. Payment of health premiums during transition period
5. Tuition Reimbursement for further training