

Corporations Frequently and Effectively Use Mediation in Collective Bargaining

Third-party mediators have long played a role in private sector collective bargaining negotiations, helping employers and employees come to agreements and avoid drawn-out, costly disputes. The mediators at the Federal Mediation and Conciliation Service (FMCS) would oversee the mediation process outlined in the Employee Free Choice Act, just as they do now when corporations and unions seek a neutral party to help them come to agreement on a fair contract.

Neutral, Third-Party Mediators Commonly Negotiate Union Contracts in the Private Sector

Congress created the FMCS as part of the 1947 Labor-Management Relations Act, and for the past 60 years the agency’s mediators have served as “third party neutrals to facilitate the settlement of issues in the negotiation of collective bargaining agreements.”¹ FMCS mediators are now involved in more than a quarter of all private sector negotiations.² Between fiscal years 2003 and 2008, the agency **mediated nearly 19,000 private sector negotiations, affecting over six million employees.**³

Mediation Is a Productive, Effective Process

Despite claims from corporate special interests, mediators improve the bargaining process by clarifying where the parties differ, facilitating an understanding of the long and short term effects of the proposals, keeping the dialogue moving forward, suggesting recommendations, and establishing realistic expectations.⁴ Mediation is proven to be effective; in fiscal year 2008, **87 percent of mediated negotiations were settled.**⁵

Major Corporations Use Mediation to Settle Bargaining Stalemates

From 2003-2008, a wide range of employers and their unions have engaged in mediation on a voluntary basis to settle disputes, including General Electric, Borders, Pepsi Cola, and Princeton University.⁶

State	Number of mediated negotiations	Number of employees affected	Examples of major employers using mediation
AR	84	28,169	ConAgra, Cooper Tire & Rubber, Kroger, Lockheed Martin, Tyson Foods
CA	1,801	1,502,292	Boeing, Costco, Disneyland, Pacific Maritime Association, San Francisco Chronicle, Toyota
LA	139	25,682	Boise Cascade, Cargill, Domino Sugar, International Paper, Northrup Grumman, Shell
ME	67	13,557	American Red Cross, Bath Iron Works, Central Maine Power, Sappi Fine Papers, Shaw’s
NE	61	11,424	Archer Daniels Midland, Interstate Brands, Lincoln Orchestra, Lozier, Omaha Steel, Swift, Tyson Foods
ND	45	2,423	Cass Clay Creamery, JR Simplot, Mid America Steel, Minnkota Power, Pan O’Gold Baking
PA	1,836	285,423	Aramark, Beverly Healthcare, Coca-Cola, Merck, Superfresh, University of Pennsylvania, Verizon
VA	157	65,436	Alliant Techsystems, Dominion Power, Goodyear, Kroger, Northrup Grumman, Smithfield, Volvo

Workers Deserve Access to Mediation and Arbitration

The Employee Free Choice Act levels the playing field by giving both workers and companies the right to bring in an outside mediator and then an arbitrator if they can't settle a contract. It's a fair and effective way for workers to reach an agreement with their employers for better pay, benefits, and working conditions.

Big Business opponents of the this critical labor law reform have levied misleading claims about the "first contract arbitration" provision arguing that it would be bad for business. However, not only do corporations already use third-party mediators as provided for in this legislation, the business community favors arbitration in a range of business, employer, and consumer dealings. The only reason corporate special interests are opposed to mediation and arbitration in the Employee Free Choice Act is that when it comes to negotiating contracts with their workers, they would rather use delay tactics to avoid paying better wages and benefits. The mediation and arbitration process is a fair way to ensure that all workers can have a contract, so we can have the economy work for everyone again.

¹ Federal Mediation and Conciliation Service. Sixty-First Annual Report, Fiscal Year 2008.

<<http://www.fmcs.gov/internet/itemDetail.asp?categoryID=228&itemID=17315>>

² Ibid.

³ Data from Freedom of Information Act submitted to the Federal Mediation Conciliation Service by American Rights at Work, filed 2 June 2009.

⁴ Federal Mediation and Conciliation Service. "Collective Bargaining Mediation," Aug. 2006.

<<http://www.fmcs.gov/internet/itemDetail.asp?categoryID=309&itemID=18277>>

⁵ FMCS Annual Report.

⁶ FOIA, 2009.