

Title 38

Public Records

Chapter 2

Access to Public Records

R.I. Gen. Laws § 38-2-8

§ 38-2-8. Administrative appeals.

(a) Any person or entity denied the right to inspect a record of a public body may petition the chief administrative officer of that public body for a review of the determinations made by his or her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition.

(b) If the custodian of the records or the chief administrative officer determines that the record is not subject to public inspection, the person or entity seeking disclosure may file a complaint with the attorney general. The attorney general shall investigate the complaint and if the attorney general shall determine that the allegations of the complaint are meritorious, he or she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in the superior court of the county where the record is maintained. Nothing within this section shall prohibit any individual or entity from retaining private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the superior court of the county where the record is maintained.

(c) The attorney general shall consider all complaints filed under this chapter to have also been filed pursuant to the provisions of § 42-46-8(a), if applicable.

(d) Nothing within this section shall prohibit the attorney general from initiating a complaint on behalf of the public interest.

History of Section.

P.L. 1979, ch. 202, § 1; P.L. 1981, ch. 279, § 2; P.L. 1998, ch. 378, § 1; P.L. 2006, ch. 378, § 1; P.L. 2006, ch. 472, § 1; P.L. 2012, ch. 448, § 1; P.L. 2012, ch. 454, § 1.

**OOR**

Office of Open Records

MEDIATION PROGRAM

The Right-To-Know Law (RTKL) authorizes the Office of Open Records (OOR) to establish an informal mediation program to resolve RTKL disputes (see 65 P.S. § 67.1310(a)(6)). This is a voluntary process to help parties reach a mutually agreeable settlement on records disputes before the OOR.

Mediation, a facilitated conversation between the parties, can serve as a fair and efficient tool to resolve conflict, and may save time and expense.

How to Request Mediation

When an appeal is filed with the OOR, the requester can check the box that says, "I am interested in resolving this appeal through OOR mediation." If the requester indicates an interest in mediation, the OOR may contact the parties to see if mediation is agreeable.

To participate in mediation, both parties must agree, in writing by signing the OOR's Mediation Agreement form, to enter the mediation process.

Once the signed Mediation Agreement is submitted, an OOR mediator will notify the parties via email whether or not the appeal will proceed to mediation. If an appeal is not approved for mediation, the appeal will continue through the traditional OOR appeal process.

The Mediation Process

Mediations are conducted by an OOR mediator. Most often, mediation sessions will take place via Microsoft Teams. In certain circumstances, when convenient to the parties and the OOR, a mediation session may take place in person.

Mediations are voluntary and either party or the OOR Mediator may terminate the mediation process at any time, at which point the traditional OOR appeal process will begin.

By entering mediation, the parties agree to participate in good faith. Failure to participate in good faith, inappropriate behavior, or failing to appear for a scheduled mediation session may result in the termination of the mediation and may affect a party's ability to participate in future mediations before the OOR.

Mediation sessions are not open to the public and each party must have authority to settle the appeal. All discussions, negotiations and materials created specifically for the mediation process are confidential and mediation communications cannot be used as evidence at a later time. See 42 Pa.C.S. § 5949 (relating to the confidentiality of mediation communications and documents).

What Happens After Mediation

If mediation is successful -- in other words, the parties reach an agreement which resolves the issues underlying the appeal -- the requester will withdraw the appeal once he or she is satisfied with the agency's compliance with the terms agreed to during the mediation.

If the appeal is withdrawn after a successful mediation, the OOR will not issue a final determination addressing the merits of the appeal. Instead, the OOR will issue an acknowledgement that the appeal was withdrawn.

If mediation is not successful, the traditional OOR appeal process will begin. Both parties will be able to make submissions to the OOR, and the OOR will have 30 calendar days from the conclusion of the mediation process to issue a final determination unless an extension was granted by the requester.

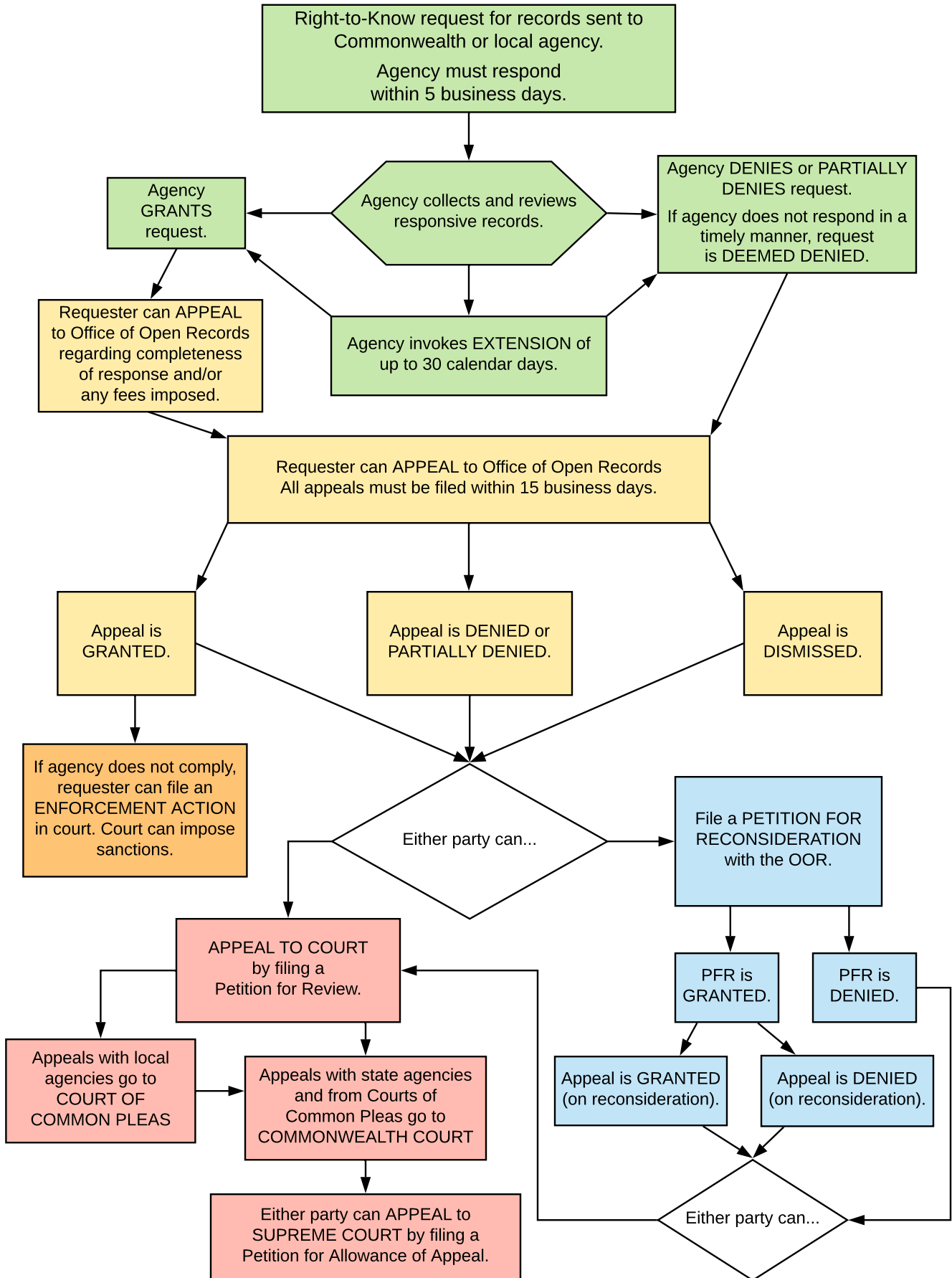
If a requester abandons an appeal during the mediation process (i.e., failing to provide status updates as agreed to and/or failing to respond to repeated status inquiries from the OOR mediator), the appeal may be considered resolved and will be withdrawn.

The signed Mediation Agreement form, a requester's withdrawal, if in writing, and the OOR's withdrawal acknowledgement will be included in the OOR's administrative appeal file and subject to public access.

Mediation Resources

 [Mediation Request Form](#)

Pennsylvania's Right-to-Know Law: Request through Appeal



QUESTIONS AND ANSWERS REGARDING MAINE JUDICIAL BRANCH MEDIATIONS
Compiled for the Right To Know Advisory Committee
With assistance from Diane Kenty, Director of CADRES (Court Alternative Dispute Resolution Service)
October 10, 2024

QUESTIONS:

- (1) Number of rostered mediators per docket/subject area;
- (2) credentials required to be put on a roster;
- (3) training provided by the Judicial Branch;
- (4) how much are the contracted mediators paid;
- (5) what is the effect of their reports if a resolution is reached, i.e. does a judge adopt it as a court order;
- (6) are either the mediation report or the mediation session confidential?

ANSWERS:

We have statewide rosters for various case types. They include mediation skills training, experience as a mediator or co-mediator, and training or experience in the relevant area of law (e.g., Maine family law to mediate Family Matters cases, Maine eviction law to mediate eviction cases, etc.) For FM cases, we also require that mediators have background or training in handling domestic violence issues.

A document with the specific training requirements for each docket is attached.

The rate of pay for mediators on the CADRES rosters in the Judicial Branch is well below market rate and even far below what other state agencies pay. We pay mediators in SC, FED, and debt collection cases \$100 for a docket or half-day. We pay mediators in FM cases \$125 per session, which is often 2-3 hours.

In all of the case types in District Court, mediated agreements go to the judicial officer. If the judicial officer approves them, they become a court order. These are all placed in public case files and are therefore public.

However, Rule 408 and Rule 514 of the Maine Rules of Evidence establish confidentiality (inadmissibility) for statements and conduct in mediation with some exceptions. Rule 514 creates a mediation privilege for mediators, including several stated exceptions when the privilege does not apply. State agencies generally have their own regulations that establish the parameters of confidentiality.

What is said and done in mediation is generally confidential, though, in District Court cases, the reports and agreements provided to the judicial officer are not.

Confidentiality works differently in Superior Court cases. In general, the actual mediated agreements are not provided to the judge. (This is different for consent decrees, for example.) The mediator must also make a report to the court about the outcome of mediation, but not the agreement itself. The formal mechanism used is the filing of a Stipulation of Dismissal or similar filing, and that's all the court sees.

CADRES OPERATIONAL RULES

2014

APPENDIX A

Minimum Criteria for Listing on the Family Matters Mediation Roster

1. A combination of 100 hours of training and experience which shall include a minimum of:
 - A. At least forty hours of mediation process training involving lectures, role plays, and mediation theory, with at least fifteen hours completed within two years of application;
 - B. At least twenty hours of experience as a mediator or a co-mediator;
 - C. At least ten hours of training or experience in the substance of Maine family law; and
 - D. At least eight hours of training relating to domestic abuse issues.
2. A minimum, annual level of continuing professional education and development of fifteen hours in either mediation process training, family law, domestic abuse issues or standards of ethical conduct in mediation is required to remain active on this Roster (*see* Part II(2)(C) of the CADRES Operational Rules).

The Director may, pursuant to Part II(1)(C) of the CADRES Operational Rules, waive a particular criterion for a particular applicant.

APPENDIX B
Minimum Criteria for Listing on the Small Claims Mediation Roster

1. A combination of fifty hours of training and experience which shall include a minimum of:
 - A. At least twenty hours of mediation process training involving lectures, role plays, and mediation theory, with at least eight hours completed within two years of application;
 - B. At least fifteen hours of experience as a mediator or a co-mediator; and
 - C. At least three hours of training or experience in the substance of Maine consumer or debtor/creditor law.
2. A minimum, annual level of continuing professional education and development of eight hours in either mediation process training, the substance of consumer or debtor/creditor law or standards of ethical conduct in mediation is required to remain active on this Roster (*see* Part II(2)(C) of the CADRES Operational Rules).

The Director may, pursuant to Part II(1)(C) of the CADRES Operational Rules, waive a particular criterion for a particular applicant.

APPENDIX C
**Minimum Criteria for Listing on the Environmental, Land Use and Natural
Gas Pipeline Mediation Roster**

1. A combination of 110 hours of training and experience which shall include a minimum of:
 - A. At least forty hours of mediation process training involving lectures, role plays, and mediation theory, with at least fifteen hours completed within two years of application;
 - B. At least twenty hours of experience as a mediator, a facilitator of multi-party contested issues, or a co-mediator; and
 - C. At least twenty hours of work experience in a land use or environmental field, or twenty hours of substantive training in a land use or environmental field, or some combination of work experience and substantive training, the adequacy of which for fulfilling this requirement shall be subject to the final determination of the Director.
2. Successful completion of the land use mediation training offered by CADRES, which shall include both process and substantive training.
3. A minimum, annual level of continuing professional education and development of fifteen hours in either mediation process training, land use or environmental issues or standards of ethical conduct in mediation is required to remain active on this Roster (*see* Part II(2)(C) of the CADRES Operational Rules).

For complex multi-party disputes, mediators shall have additional training and/or experience in the mediation/facilitation of such disputes. The choice of a mediator for such cases and the decision to assign co-mediators will be at the discretion of the Director with input of the parties.

The Director may, pursuant to Part II(1)(C) of the CADRES Operational Rules, waive a particular criterion for a particular applicant.

APPENDIX D
Minimum Criteria for Listing on the District Court General
Civil Litigation Roster

1. A combination of 100 hours of training and experience which shall include a minimum of:
 - A. At least forty hours of mediation process training, involving lectures, role plays and mediation theory, with at least fifteen hours completed within two years of application;
 - B. At least twenty hours of experience as a mediator or a co-mediator; and
 - C. At least ten hours of training or experience in Maine general civil law and court procedure.

2. A minimum, annual level of continuing professional education and development of fifteen hours in either mediation process training, general civil law or court procedure or standards of ethical conduct in mediation is required to remain active on this Roster (*see* Part II(2)(C) of the CADRES Operational Rules).

The Director may, pursuant to Part II(1)(C) of the CADRES Operational Rules, waive a particular criterion for a particular applicant.

APPENDIX E
Minimum Criteria for Listing on the Superior Court Mediation Roster

I. An applicant shall:

1. Be on the CADRES General Civil Litigation Roster, or
2. A. Have a combination of 100 hours of training and experience in the following areas, which shall include a minimum of:
 - i. At least forty hours of mediation process training, involving lectures, role plays and mediation theory, with at least fifteen hours completed within two years of application; and
 - ii. At least twenty hours of experience either as a mediator or as a co-mediator; and
 - iii. At least ten hours of training or experience in Maine general civil law and court procedure.
- B. Have the ability to conduct mediation; and
- C. Receive a satisfactory criminal background check by the Administrative Office of the Courts.
3. Complete a half-day orientation and training program offered by CADRES on the process of mediation and procedures to be followed in the Superior Court ADR program.

II. Continued Active Status. To remain active on this Roster an ADR Provider shall complete annually a total of fifteen hours of continuing professional education in some or all of the following subject areas: ADR processes, general civil law, court procedure, and standards of ethical conduct in mediation.

III. Waiver. The Director may, pursuant to Part II(1)(B) of the CADRES Operational Rules, waive a particular criterion for a particular applicant.

IV. CADRES Operational Rules. ADR Providers on this Roster are subject to the provisions of the CADRES Operational Rules.

APPENDIX F
Minimum Criteria for Listing on the Arbitration Roster

I. An applicant shall:

1. A. Be a lawyer for at least eight years (including at least the last three in the State of Maine) and have substantial recent experience in the subject matter of the type of case to be referred; or
- B. Have at least eight years of substantial recent experience (including at least the last three in the State of Maine) in the subject matter of the type of case to be referred (for instance, as a contractor for a contracting dispute, an accountant for a business dispute, or a doctor for a medical dispute); or
- C. Be a member of an arbitration panel of the American Arbitration Association or an equivalent organization for the type of case to be referred; and
2. Have completed at least six hours of training in the arbitration process; and
3. Have the ability to conduct an evidentiary hearing; and
4. Receive a satisfactory criminal background check from the Administrative Office of the Courts; and
5. Complete one half-day orientation and training program offered by CADRES on the process of arbitration and procedures to be followed in the Superior Court ADR program.

II. Continued Active Status. To remain active on this Roster an ADR Provider shall annually complete a total of fifteen hours of continuing professional education in some or all of the following subject areas: ADR processes, general civil law, court procedure, and standards of ethical conduct in ADR.

III. Waiver. The Director, may pursuant to Part II(1)(B) of the CADRES Operational Rules, waive a particular criterion for a particular applicant.

IV. CADRES Operational Rules. ADR Providers on this Roster are subject to the provisions of the CADRES Operational Rules.

APPENDIX G
Minimum Criteria for Listing on the Early Neutral Evaluation Roster

I. An applicant shall:

1. A. Be a lawyer for at least eight years (at least the last three of which in the State of Maine) and have substantial recent experience in the subject matter of the type of case to be referred; or
B. Have at least eight years of substantial recent experience (at least the last three of which in the State of Maine) in the subject matter of the type of case to be referred (for instance, as a contractor for a construction dispute, an accountant for a business dispute, or a doctor for a medical dispute);
2. Have the ability to conduct a case evaluation proceeding;
3. Receive a satisfactory criminal background check from the Administrative Office of the Courts; and
4. Complete one half-day orientation and training program offered by CADRES on the process of early neutral evaluation and procedures to be followed in the Superior Court ADR program.

II. Continued Active Status. To remain active on this Roster an ADR Provider shall annually complete a total of fifteen hours of continuing professional education in some or all of the following subject areas: ADR processes, general civil law, court procedure, and standards of ethical conduct in ADR.

III. Waiver. The Director may, pursuant to Part II(1)(B) of the CADRES Operational Rules, waive a particular criterion for a particular applicant.

IV. CADRES Operational Rules. ADR Providers on this Roster are subject to the provisions of the CADRES Operational Rules.

APPENDIX H
Minimum Criteria for Listing on the Forcible Entry and Detainer Mediation Roster

I. An applicant shall complete:

1. A combination of fifty hours of training and experience, which shall include a minimum of:
 - A. At least twenty hours of mediation process training involving lectures, role plays, and mediation theory, with at least eight hours completed within two years of application;
 - B. At least fifteen hours of experience as a mediator or co-mediator; and
 - C. At least three hours of training or experience in the substance of Maine landlord-tenant law.
2. A minimum, annual level of continuing professional education and development of eight hours in either mediation process training, the substance of landlord-tenant law or standards of ethical conduct in mediation is required to remain active on this Roster (*see* Part II(2)(C) of the CADRES Operational Rules).

The Director may, pursuant to Part II(1)(C) of the CADRES Operational Rules, waive of a particular criterion for a particular applicant.

[Office of the Maine Attorney General](#)

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Volunteer Mediators

Attorney General Needs Volunteer Mediators To Help Consumers

The Consumer Protection Division of the Maine Attorney General's Office offers, free of charge, the Consumer Mediation Service. This complaint resolution program is for the use of Maine businesses and consumers.

The Consumer Protection Division of the Maine Attorney General's Office offers, free of charge, the Consumer Mediation Service that on average returns approximately \$500,000.00 to consumers. The Attorney General is always recruiting Volunteer Consumer Complaint Mediators to mediate disputes between consumers and businesses that have been previously vetted by staff.

The Mediators share offices in the Consumer Protection Division. We will train volunteers in consumer law and mediation techniques, and as they mediate disputes, mediators will consult freely with our program staff, and as necessary, an Assistant Attorney General. We ask mediators to volunteer a minimum of 3 hours per week.

Students at the University of Maine at Augusta can receive three college credits for serving as a Consumer Mediator in our program. Interested persons should contact the UMA Office of Academic Affairs and ask for registration information concerning CEO-117, Consumer Law Internship. Participation in this program can also count for 4 hours of mediation experience towards the CADRES roster mediation requirements.

Interested persons should contact the UMA office of Academic Affairs and ask for registration information concerning CEO-117, Consumer Law Internship. Participation in this program can also count for 4 hours of mediation experience towards the CADRES roster mediation requirements.

Volunteer Mediators receive training from staff in the following areas:

- Introduction to the State and Federal legal system;

- The Maine Uniform Commercial Code and consumer's common law contract rights;
- The Unfair Trade Practices Act, State and Federal law;
- Warranty rights-express and implied;
- Lemon Law complaints and used car complaints;
- Landlord/tenant law;
- Deceptive advertising;
- Home improvements and door-to-door sales;
- Credit sales and debt collection;
- Deposits and refunds; and
- Mediation techniques.

[Voluntary Mediators application \(PDF\)](#)

[Voluntary Mediators application \(MS Word\)](#)

You may apply by submitting a Voluntary Mediators application form to:

Maine Attorney General

VOLUNTEER CONSUMER COMPLAINT MEDIATORS

Consumer Protection Division

6 State House Station

Augusta, Maine 04333

Credits

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ask for clarification of anything you don't understand. If you're complaining by letter, allow enough time for response. Remember to put in the letter the *actual date* you want to hear from the business (e.g., "Please respond no later than June 15, 2019."). That way, you'll know when you're being ignored. Ten days to 2 weeks is reasonable.

- F. Stand firm and don't accept a solution you feel is inadequate.
- G. Promptly confirm any agreement in writing.
- H. If you think your legal rights have been violated (e.g., you were sold a defective product), you may want to send the business a copy the relevant chapter from the Attorney General's *Consumer Law Guide*.

If you can't resolve your complaint directly with the business, contact the Attorney General's Consumer Mediation Service.

§ 1.5 The Attorney General's Consumer Mediation Service

Who Can Use the Attorney General's Consumer Mediation Service?

The Attorney General's Consumer Mediation Service is a free service available to Maine consumers who have a complaint against a business, and to out-of-state consumers who have a complaint against a Maine business. We don't accept business to business complaints for mediation. The Attorney General's Office also monitors consumer complaints to help determine the businesses that the Attorney General may want to investigate or sue for unfair and deceptive business practices that harm Maine consumers.

What Is Complaint Mediation?

Complaint mediation is a method of dispute resolution in which the parties to a dispute work through a third person to try to resolve it. The third person is a volunteer "mediator" who's trained by the Attorney General's staff to help the disputing parties understand each other's position and to reach an agreement. The process is simple, informal, and produces results. In a typical year, over 60% of the complaints we accept for mediation are successfully resolved.

How Do I Start the Mediation Process?

To find out whether your complaint can be mediated, contact the Consumer Mediation Service via our online complaint form at https://www.maine.gov/ag/consumer/complaints/complaint_form.shtml; You may call us Monday – Thursday between 9 AM – 12 noon at 800-436-2131 or 207-626-8849; or write a letter addressed to the Consumer Mediation Service, Office of the Attorney General, 6 State House Station, Augusta, ME 04333.

How Does the Consumer Mediation Service Work?

Your written complaint is reviewed by the Attorney General's staff to determine if it can be mediated. If it's accepted for mediation, a copy of your complaint is forwarded to the business for response. At the same time, we notify you by letter that we've started the mediation process. Once a volunteer mediator (not a state employee) is assigned to your case, the mediator will attempt to clarify the relevant facts of the dispute and will work to bring the parties closer to agreement through emails, phone calls, and via Zoom. Of course, to reach a satisfactory settlement, the business must agree to participate in the mediation. The business's participation is voluntary. If it refuses to mediate, we can do nothing more and the mediator will close the complaint as unresolved.

§ 1.6 Bringing Your Case in Small Claims Court

If your complaint isn't resolved through mediation and your claim for damage or a debt owed is for no more than \$6,000 (exclusive of interest and costs), you may consider bringing your case in small claims court, which is part of each county's District Court. Small claims court is a "people's court" because the procedures are simple and informal¹ and you don't need a lawyer to bring a case. You can ask for monetary relief, and equitable relief, which would be in the form of a court order that orders the defendant (the person you're suing) to "return, reform, refund, repair or rescind."² For example, if you win your case against an appliance repair business, the court could grant you equitable relief by ordering the defendant to properly repair your stove. Before a trial, the judge may refer the parties to a free mediation session that usually lasts less than an hour. If you're not able to reach an agreement in mediation, the judge will decide your case after a trial. You can obtain more information on small claims court at the website for Maine's Judicial Branch: http://www.courts.maine.gov/maine_courts/small_claims/index.shtml.

§ 1.7 Finding an Attorney

Sometimes the nature of your consumer problem will require the assistance of an attorney. Finding an attorney and paying for legal services can be difficult. Here are some suggestions for finding legal assistance:

A. Ask Your Friends

Ask your friends or someone you know and trust for the names of lawyers they've used who do good work.

B. Lawyer Referral Service

The Maine State Bar Association sponsors the Lawyer Referral Service. For a \$25 referral fee, you'll receive a 30-minute consultation with a lawyer in your area to explore whether you have a case worth pursuing. You can contact the Lawyer Referral Service at 207-622-1460 or 1-800-860-1460; or via its website at <https://mainebar.community.lawyer>.

C. Pine Tree Legal Assistance

¹ See 14 M.R.S. §§ 7481 through 7487.

² 14 M.R.S. § 7481.