

QUESTIONS AND ANSWERS

Thank you for your interest in participating in the State Personnel Board's settlement program. Here are some common questions and the answers regarding the State Personnel Board's settlement program:

Q: What is a settlement conference?

A: A settlement conference is an opportunity for the parties to meet with a neutral settlement facilitator in order to try and resolve their dispute prior to going to an evidentiary hearing.

Q: Why should I participate in a settlement conference?

A: There are numerous benefits to resolving your dispute through the settlement process, including reduced attorney fees, less stress, a quicker resolution, and the opportunity to exercise some degree of control over the final outcome. In contrast, an evidentiary hearing involves a lot of time, effort and expense and the outcome is uncertain.

Q: How do I request a settlement conference?

A: When your case has been set for hearing, you (or your legal representative if you have one) as well as the legal representative for the opposing party will receive a letter from the State Personnel Board inviting both parties to consider the settlement program and providing information to make a request.

Q: When is settlement conference scheduled?

A: The Administrative Law Judge (ALJ) assigned as settlement facilitator will work with both sides to schedule the settlement conference for a mutually agreed-to date and time. Sometimes the parties find it helpful to hold a settlement conference prior to engaging in discovery and preparation. At other times, parties prefer to complete discovery of potential evidence or resolve legal issues prior to a settlement conference being held.

Q: What is the role of the ALJ who acts as the settlement facilitator?

A: The role of the ALJ assigned as settlement facilitator is to help the parties reach an agreement to resolve the dispute. The settlement facilitator is neutral and does not represent either party.

Q: Who attends the settlement conference?

A: Only the settlement facilitator, the parties and their representatives may participate in settlement proceedings. The settlement facilitator may allow a third party, such as a spouse or other adviser, to attend if that attendance will help in the settlement proceedings.

Q: Where do we go for the settlement conference?

A: The settlement conferences are generally held in conference rooms on the third floor of 1525 Sherman Street, Denver, Colorado. Settlement conferences may also be held at other locations or they may be conducted by phone conferencing if agreed to by the parties.

Q: Do both parties meet in the same room?

A: No, the parties are seated in separate, private rooms during the settlement conference. Parties may, however, meet with each other during the course of the conference.

Q: How long does the settlement conference last?

A: The length of time for settlement conferences depends on the nature and complexity of the negotiations between the parties. Typically, the settlement facilitator schedules the settlement conference to last between 2 and 4 hours. When necessary, however, settlement conferences can continue to another day or more.

Q: Is the ALJ who acts as the settlement facilitator the same judge who will hear the case?

A: No. The ALJ who serves as your settlement facilitator is different from the ALJ who serves as your hearing judge.

Q: Does the ALJ who acts as the settlement facilitator talk about the case to the ALJ who hears the case?

A: No. The ALJ who serves as your settlement facilitator will not share notes or discuss the substance of the settlement conference with the ALJ who serves as your hearing judge.

Q: Is the settlement conference confidential?

A: Yes. The settlement conference is private, confidential and privileged unless the information disclosed is required to be reported under specific law. Communications between the parties in the settlement conference are not admissible at hearing.

Q: What happens if we reach an agreement?

A: Any settlement agreement reached will be put in writing and reviewed by both parties prior to signature. The parties then will file a motion for the hearing judge to dismiss the case based on a settlement being reached.

Q: What can I do to help make my settlement conference be successful?

- Even if you disagree with the other side, be respectful.
- Do not interrupt. Do your best to listen and to understand the other party's perspective.
- Be honest.
- Stay engaged in the settlement discussions.
- Be prepared to compromise.

Q: What happens if we do not reach an agreement?

A: If a settlement agreement is not achieved, the case proceeds to an evidentiary hearing with the ALJ who has been assigned as the hearing judge. The hearing is conducted according to the rules in *Chapter 8 of the Personnel Board Rules and Personnel Director's Administrative Procedures* which can be found on the State Personnel Board web site under "Rules".

Q: If my case goes to hearing, can I call the settlement facilitator as a witness?

A: No, you may not call the settlement facilitator as a witness in your case.