



Frequently Asked Questions (FAQ)

Election Mediation Committees

FAQ

What is mediation?

Mediation is a voluntary process for assisting parties reach a mutually acceptable settlement in relation to a dispute during the campaign period. It starts with the filing of a complaint with a mediation committee by one of the parties.

FAQ

What are Election Mediation Committees?

Election Mediation Committees (EMCs) are bodies formed by the Union Election Commission at central, region/state, district and township sub-commission levels to resolve election disputes, diffuse tension between election stakeholders and deter and prevent future violations.

FAQ

What is the basis for the functioning of the EMCs?

The EMCs are established pursuant to the Fifth Amendment of the Electoral By-laws, which was approved by the Hluttaw on May 20, 2020. Art. 106(a) thereof provides that the “UEC can form the mediation committees at different levels of sub-commissions after coordination with electoral stakeholders to solve and mediate the electoral disputes that happened during the election period”. The EMCs were created by the UEC for the first time in 2015 general elections and functioned on the basis of the UEC Notification on Formation of Election Mediation Committees (June 12, 2015).

In preparation for the 2020 elections, the UEC adopted the Election Mediation Committee Guidebook, which guides the work of the various levels of mediation committees, a self-learning handbook for future EMC members, as well as a voter education poster and a video on EMC. In its Strategic Plan (2019-2022) the UEC included mediation as part of the Strategic Pillar on Electoral Disputes Resolution. One of the objectives is to ensure that the various levels of mediation committees are established and made functional.

FAQ

What are the various levels of the EMCs, and where should I file a complaint?

There are four levels of EMCs, each of which have different composition and level of responsibility:

- Election Central Mediation Committee
- Regional/State/Union Election Mediation Committees
- Self-Administered Region/Zone/District Election Mediation Committees
- Township Election Mediation Committees

You may file a dispute at the relevant sub-commission office. Disputes which are filed with, but not resolved, by an EMC can be submitted to higher level mediation committees for further mediation, as long as both parties agree (from Township to District EMC or from District to Regional/State EMC).

FAQ

What are the duties of various level Election Mediation Committees?

While the duties vary across various level of Election Mediation Committees, the following are the common duties of the different EMCs:

- Ensure that political parties and independent candidates comply with the Code of Conduct

- Coordinate with Heads of administration, security and relevant departments by inviting them to the meeting when there is a need for help regarding the management, administration and security situation
- Mediate the issues that arise during the electoral campaign period and other disputes as per EMC Guide
- Mediate disputes submitted by the political parties and independent candidates
- Mediate disputes submitted by sub-commissions or relevant departments
- Seek instructions higher level Electoral Mediation Committee when there is a difficult situation to mediate
- Mediate disputes to assist parties in reaching a mutually acceptable settlement/decision through mediation meetings
- Except for the Central Mediation Committee, submit report on the works of the committee EMC
- Keep records of the works of the electoral dispute mediation committee.

In addition, the Election Central Mediation Committee is also mandated to supervise the various levels electoral mediation committees to ensure the holding of free, fair and transparent election. For exact reference of duties of various level of EMCs, please refer to the UEC Notification on Formation of Election Mediation Committees (June 12, 2015), or the EMC Guidebook.

FAQ

What is the composition of Election Mediation Committees?

Composition varies across various levels of the EMCs. The EMCs at Region/State/Union, District and Township level are composed of:

- Chairperson of the relevant sub-commission
- Members of the relevant sub-commission, including civil servants
- Representatives from parties that run for the election in the relevant area, and each representative of individual candidates
- Five dignified persons from the community (to include at least one women if possible)
- Secretary/Election Officer of the sub-commission (and for Region/state/Union the Assistant Director of the sub-commission).

The Election Central Mediation Committee is composed of the Chairman of UEC, members of the UEC, Chairpersons of Union/Region/State Sub-commissions, a representative from each of the 10 political parties that submitted most candidates for the election, a representative from the relevant ministries and government agencies, Director General and Deputy Director General of the UEC. For exact reference of composition of various level of EMCs, please refer to the UEC Notification on Formation of Election Mediation Committees (June 12, 2015), or the EMC Guidebook.

FAQ

What is the term of the Election Mediation Committees?

The term of the various levels of EMCs starts on the day of their establishment by the UEC (as notified by the UEC) and ends on election day.

FAQ

What types of disputes can be resolved through election mediation?

Issues that may be resolved through mediation include those relating to:

- Conduct of campaign

- Code of conduct for political parties and candidates (2020)

FAQ What are some examples of violations that may be resolved through mediation?

Some examples include but are not limited to:

- Spreading rumors about a candidate
- Hate speech and disinformation
- Misuse of religion for political purpose
- Damage or destruction of campaign material
- Misuse of public resources, use of vehicles or public facilities

FAQ Who can file a complaint about a dispute?

The persons who can file a complaint about a dispute are as follows:

- Political parties, and candidates involved in the dispute
- Election agents who are related to the dispute
- Voters who are related to the dispute in relevant constituencies
- Relevant government department or sub commission

A template for filing a *dispute letter* is available in the guide in Appendix A.

FAQ What happens during a mediation meeting?

The EMC Guide provides that the member of the EMC and all the parties to the dispute attend the meeting. During the meeting, the EMC must inform the parties that the declarations, proposals, admissions or concessions made during the mediation are inadmissible in any election tribunal, judicial or similar proceedings and all persons present in the meeting cannot be obliged to testify in any legal proceedings with regard to information obtained during the mediation.

Stages for conducting election mediation proceeding

The following are typically the seven stages for conducting election mediation proceeding:

STAGE 1 - Mediator's opening statement

Mediator (usually the EMC Chair) makes opening statement, introduces persons present, explains goal and rules of mediation, and encourages parties to work cooperatively towards a settlement.

STAGE 2 - Parties' opening statement

Each party is invited to describe the dispute or problem that occurred and its consequences. Mediator might entertain ideas about a resolution. While one person is speaking, the other one is not allowed to interrupt.

STAGE 3 - Joint discussion

The mediator might encourage parties to respond directly to the opening statements. The EMC members can also ask questions in addition to the mediator himself.

STAGE 4 - Private caucus/meeting

The private caucus/meeting is a chance for each party to meet and discuss privately with the mediator if there are confidential information that they do not want to share to the other party or with the full participants. If separate rooms are available the mediator will go between two rooms to discuss positions and exchange offers; otherwise, he/she could ask the parties one after the other to go outside the room

so that private meeting could be had. However, if parties are willing to discuss all their issues in the presence of each other and all EMC members, private meetings may not be needed.

FAQ

STAGE 5 - Joint negotiation

The mediator might bring parties together to negotiate directly. The mediator does not usually bring parties together until a settlement is reached or time allotted for mediation ends.

FAQ

STAGE 6 - Closure

If parties agree the mediator will likely ask each side to sign the summary of the agreement. If parties do not agree, the mediator will help parties determine whether they would like to continue the negotiations, and remind parties that it is not legally binding and does not affect legal proceedings.

FAQ

STAGE 7 - Recording

The mediator or the UEC election assistant will record the meeting minutes in a template provided by the UEC, and will submit to the relevant sub-commission or UEC as instructed.

FAQ

Are mediation meetings public and who can attend?

Yes, mediation meetings are public. The following persons can attend and observe the meeting:

- Election Observers
- Public
- Persons related to the dispute

FAQ

Are parties obliged to participate in a mediation proceeding?

No. Mediation is a consensual and voluntary process. Parties cannot be obliged to participate in a mediation proceeding if they do not want to. If one of the parties is not present, the mediation cannot proceed or continue.

FAQ

Are mediation settlements legally binding?

No. Mediation is a voluntary process and the settlement reached is not legally binding. Parties are required to respect the terms of the settlement in good faith.

FAQ

What other resources may I refer to:

- UEC (2020) Election Mediation Committees – Guide for Various Levels of Mediation Committees
- [EMC Poster](#)
- [EMC Video](#)
- Appendix A – Complaint Letter to Mediate Electoral Dispute
- Appendix B – Record of meeting minutes