

Proposal



To: Ms. Mary Keating, Title IX Investigator
Berkeley Unified School District

From: Christopher K. Boucher, *Esq.*
Founding Attorney

Date: October 7, 2021

Re: Proposal for Workplace Mediation Services

A. PROPOSED SCOPE OF WORK

Boucher Law is pleased to submit this proposal to provide workplace mediation services for the Berkeley Unified School District ("District"). Mediation services are provided in a confidential environment where those engaged in conflict work through issues with the assistance of a mediator, someone who is a neutral party and can help with the development of an agreement that broadens communication and sets a foundation of solutions that work for everyone involved. Mediation is a voluntary, confidential, collaborative problem solving process used as an alternative for resolving conflicts in the workplace, and promotes better understanding and assists employees and employers in reaching mutually satisfying solutions in workplace disputes.

Participation in mediation is voluntary, and any agreement made is developed by the parties themselves. Mediation not only resolves current problems, but assists participants in developing ways to resolve future disputes.

Description of Services

As part of our workplace mediation services, we will work with the employee(s) involved to help navigate through interpersonal conflict between individuals or within a team. Our services may include handling group mediations and neutral assessment, as in some cases, group mediation provides an excellent opportunity to resolve productivity problems and interpersonal issues within a team.

During the mediation, parties are each given an uninterrupted opportunity to discuss their issues. With guidance from mediators, the parties eventually communicate directly with each other and begin to develop options for resolution. In general, one of our workplace mediators will first speak with each party individually, to build up a strong trust and rapport, in addition to an understanding of the problem from an individual perspective.

After the individual sessions with our workplace mediator, a joint session will then be held. During this, our mediator will facilitate a discussion between the parties involved, and work at finding ways to rebuild the working relationship. We will then arrange a follow-up session at a later date, to further build on the positive outcomes.

Our Approach

Below is an outline of what to expect from the our firm's mediation process:

- One-to-one meetings with those involved
- Exploration of what the individuals would each consider to be a fair and reasonable resolution
- Establishing recognition from the individuals that there is a need to agree a way forward
- Mediator reflection
- Joint discussion with all parties to agree the ways forward
- Consultant write-up of session(s)
- Follow-up one-to-one conversations with the individuals and their line managers after six months.

Ancillary Services

We often support our mediation methods with carefully considered team-building sessions for your staff and management teams. Themes for these sessions might include:

- Coping with stressful situations
- Resilience and emotional intelligence
- Managing your emotions
- Wellbeing at work
- Team dynamics
- Building inclusive teams that understand workplace difference
- Positive and practical ways of managing workplace stress.

Attorney-Client Privilege and Attorney Work Product

As the primary purpose of our services is to ensure the District's compliance with the applicable legal requirements, it is intended that the scope of our services will create an attorney-client relationship between us and the District. Accordingly, it is also intended that all communications between our team and the District and appropriate management personnel are protected by attorney-client privilege. Further, all work products created by our firm is considered attorney work product and is intended to be protected by the attorney work product doctrine. (Cal. Code Civ. Proc., § 2018.030.)

COVID-19 Contingency Planning

In light of the present challenges due to COVID-19, our firm has adapted technology to ensure ease and convenience in collecting the data. We regularly rely on email to maintain continuous communication with the Agency's management, supervisors, and other stakeholders. As we have pioneered a completely paperless practice, our cloud-based practice management system also allows us to provide dedicated and responsive service to clients despite the challenges posed by COVID-19.

Also, in the event that social distancing requirements prevent any in-person meetings and/or interviews, we are also able to host meetings and conduct interviews remotely using video conferencing platform to ensure the project's continuity.

Based on the parties' preference, our mediation services can be conducted in one of three ways:

- Fully Virtual - Fully virtual video conferencing via Zoom.
- Partially Virtual - Some attendees may appear in-person while others may appear virtually via Zoom video conferencing.
- Fully In-Person - Attendees appear in person at a location to be agreed upon by parties (subject to the District's COVID-19 guidelines and restrictions).

B. FIRM AND PROJECT TEAM

About Our Firm

As a uniquely qualified legal and HR consulting firm founded in 2020, Boucher Law possesses both the practical and legal experience to assist public agencies across California on achieving solutions that are both legally defensible, yet everyday sensible. With a team of seasoned legal, human resources, and management professionals, our team collectively has over a century of experience in serving employers and organizations of all sizes. With a robust consulting practice that extends to a full suite of HR services to complement our legal expertise, Boucher Law serves as a "one stop shop" for our client's labor and employment needs, whether it is today, tomorrow, and beyond.

Our firm employs eight legal and HR professionals, and has two locations across California. Our Northern California office is located in Berkeley. We also have a Glendale branch office to serve our Southern California clientele. The work for the District will be performed out of our Berkeley office.

Below is a summary of services provided by our firm's professionals:

- HR Consultation & Support Services
- Executive Search & Recruitment Services
- Classification & Compensation Analysis
- Management Practices & Consultation
- HR Training & Speaking Engagements

- General Employment Law & Advice on CalPERS Matters
- Workplace Misconduct & Harassment Investigations
- Disciplinary Appeals & Arbitrations
- Administrative Agency Representation
- Workplace & Gun Violence Restraining Orders
- Brown Act & Public Records Act Compliance
- Work Together Agreements
- Mediation & Conflict Resolution
- EEOC Conciliation or DFEH Affirmative Relief Training
- Labor Relations & Negotiations Services

Below is a representative example of our firm's public agency clients:

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| • Alameda Health System* | • Cosumnes Community Services District |
| • Alameda Health System Foundation | • County of El Dorado* |
| • Asian Art Museum* | • County of Nevada* |
| • Child Start, Inc.* | • Delta Diablo* |
| • City of Carson* | • First 5 Santa Clara County |
| • City of Cupertino* | • Long Beach Transit* |
| • City of Dublin | • Montara Water & Sanitary District |
| • City of Fairfield* | • Mt View Sanitary District |
| • City of Half Moon Bay* | • North Marin Water District* |
| • City of Los Altos* | • San Mateo County Transit District* |
| • City of Manteca* | • Solano County Water Agency |
| • City of Napa* | • Southern Marin Fire District* |
| • City of Richmond* | • Sewer Authority Mid-Coastside* |
| • City of San Bruno* | • Special District Risk Management Authority |
| • City of San Leandro* | • Superior Court of California, County of San Francisco* |
| • City of South Gate* | • Town of San Anselmo* |
| • City of Sunnyvale* | • University of California, Berkeley* |
| • City of Tracy* | |
| • City of Vallejo* | |
| • Coalition for Controlling Insurance Costs in California Schools Health and Welfare Trust | |

** denotes public agencies with union-represented workforces.*

Our Founding Principal

Prior to entering into private practice, our firm's Founding Attorney, Christopher Boucher, spent over a decade as a seasoned human resources executive with a broad spectrum of industry experience, including municipalities, public utilities, aviation, maritime, special districts, K-12 as well as higher education. Most notably, Christopher served as the Port of Oakland's Director of

Human Resources from 2014 to 2018, where he directed the Port's human resources, labor relations, benefits, EEO, leaves and disability compliance, occupational health and safety, and workers' compensation functions. In recognition of his accomplishments, Christopher was featured as one of 2016's national "Top Five Rising Stars" by Human Resource Executive magazine.

In 2020, Christopher founded Boucher Law with a mission of creating a unique HR-focused and HR-centric labor and employment law firm dedicated to serving our clients legal and practical needs, and our unparalleled blend of legal and practical HR experience has been a key distinguishing and selection factor for our firm's clients.

Our People

With the exception of our newest HR Consultants, each of our team members have a minimum of two decades' of experience in various HR and management roles, and we have served cities, counties, special districts, K-12 and higher education, and joint powers authorities as in-house staff prior to transitioning into a consultant role.

Approximately 70-75% of our work is performed on behalf of our public agency clients. As a result, we have significant insights into the various labor and employment laws, issues, and challenges faced by public agencies, as well as their unique obligations to maintaining public accountability.

Project Team and Ability to Perform

Our Founding Attorney, Christopher Boucher, will serve as the Project Manager for the District. He will be assisted by our firm's Senior Practice Leader, Margaret Ramirez, who will also serve as the lead consultant to provide the mediation services for the District. Detailed profiles for each of our team's professionals are enclosed as Exhibit A. No portion of this engagement will be assigned to subcontractors.

C. COSTS

For the scope of this project, we propose a blended base rate of \$325 for our attorney staff and \$225 per hour for our consultant staff. Travel time and waiting time shall be charged to District. An additional surcharge of \$25.00 per hour shall apply for complex matters, including case preparation and attendance at litigation or administrative proceedings, court trials, arbitrations, administrative hearings, discovery hearings, media inquiry and response, and testifying at trials and hearings related to the scope of services provided under this Agreement.

Below is a rate table reflecting our base rate by staff category:

Staff Category	Base Hourly Rate
Attorney	\$325
Paralegal / Legal Assistant	\$225
Senior Practice Leader	\$225
Senior HR Consultant / HR Consultant	\$225

The District will also reimburse all reasonable and necessary expenses incurred by our firm in the performance of the services under this Agreement. Authorized reimbursable expenses shall include, but are not limited to, printing and copying expenses (in-house printing and copies shall be charged at \$0.15 per page for black and white copies, and \$0.50 per page for color copies); mileage expenses at the rate allowed by the Internal Revenue Service; bridge tolls; parking; delivery costs (e.g. courier, overnight and express delivery); and, other similar costs. A 5% administrative fee shall be included on invoices for any outside attorneys or sub-consultants billed through our office.

The above rates, effective January 1, 2021, are subject to change upon thirty (30) days advance written notice. Attorneys, consultants, and staff bill their time in minimum units of one-tenth (0.10) of an hour. Communications advice (e.g. via telephone, voicemail, e-mail) is billed to a minimum increment of three-tenths (0.30) of an hour. We will submit detailed monthly statement of account for services, of which payment is due within thirty (30) days upon receipt.

D. INSURANCE REQUIREMENTS

Boucher Law possesses the following insurance policies to meet the District's contract requirements (limits are denoted below):

- General Liability: \$2,000,000 each occurrence / \$4,000,000 aggregate;
- Commercial Auto: \$1,000,000 combined single limit;
- Professional Liability: \$2,000,000 each claim / \$4,000,000 aggregate; and,
- Workers' Compensation: \$1,000,000 per occurrence (statutory).

With regards to general liability, commercial auto and workers' compensation insurance, if required by the District, waiver of subrogation may be obtained as an endorsement for work performed on behalf of the District. The District may be added as an additional insured for the general liability and commercial auto policies. All policies are subject to a standard deductible.

E. CLOSING

In closing, Boucher Law is committed to meeting the requirements of the District's anticipated needs. If you have any questions related to this proposal, please do not hesitate to contact our office at (510) 838-1000 extension 1001 or via email at christopher@boucher.law.

Thank you for the opportunity to submit our interest in working with the Berkeley Unified School District.