



Legal Alert: Mandatory Mediation in Minnesota

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Executive Summary: The Minnesota Department of Human Rights (MDHR) announced last month that it is requiring mediation for every charge of discrimination filed with the Department. Previously, the MDHR only offered mediation for early resolution when both parties agreed.

The MDHR's new policy requires the parties to mediate after the employer files its response to the charge, but before any investigation begins. The mediations will take place at the Bureau of Mediation Services and the service will be free to the parties.

While the rule could foster settlement in some cases, it is unlikely to have the broad impact the MDHR desires. The Minnesota Human Rights Act, unlike federal discrimination laws, does not require a claimant to file a charge with the MDHR before filing suit. Therefore, many individuals who have strong discrimination claims in Minnesota never file with the MDHR, but instead retain counsel and proceed directly to court. As a result, the vast majority of charges that are filed with the MDHR ultimately are dismissed with a finding of "no probable cause." Most Minnesota employers are aware of that fact, and once they have already spent the time and money to respond to a typical charge, they will have little incentive to settle, realizing that the charge is likely to be dismissed anyway. Thus, the main result of the new rule will be to increase the parties', and the State's, expenditures of time and money, with no corresponding benefit.

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