ISSN 1886-5895
Octubre 2026 Nº 82
https://usie.es/supervision21/
https://doi.org/10.52149/sp21

MEDIACIÓN ADMINISTRATIVA Y FUNCIÓN INSPECTORA: JUSTICIA RESTAURATIVA Y GESTIÓN DE CONFLICTOS FUNCIONARIALES EN UN SISTEMA EDUCATIVO EN TRANSFORMACIÓN

ADMINISTRATIVE MEDIATION AND THE INSPECTION FUNCTION: RESTORATIVE JUSTICE AND THE MANAGEMENT OF CONFLICTS AMONG CIVIL SERVANTS IN AN EDUCATION SYSTEM UNDERGOING TRANSFORMATION

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Resumen

La mediación administrativa ofrece un espacio especialmente interesante para abordar los conflictos profesionales que se producen dentro de las organizaciones públicas y, en particular, en el ámbito educativo. No se

Recepción: 03/10/2026 Aceptación: 09/10/2026

https://doi.org/10.52149/Sp21
ISSN 1886-5895

trata de sustituir la aplicación de la ley ni de disponer de potestades que corresponden exclusivamente a la Administración, sino de preguntarnos si es posible escuchar antes, comprender mejor el conflicto, reparar sus consecuencias y contribuir a una decisión más proporcionada.

Palabras clave: *Derecho administrativo, supervisión educativa. mediación administrativa, potestad de la administración. conflictos educativos, Unidad de mediación administrativa*

Abstract

Administrative mediation offers a particularly valuable framework for addressing workplace disputes that arise within public organisations, and in the education sector in particular. It is not a question of replacing the application of the law or of exercising powers that are the exclusive preserve of the public administration, but rather of asking ourselves whether it is possible to listen more attentively, gain a better understanding of the dispute, remedy its consequences and contribute to a more proportionate decision.

Keywords: *Administrative law, educational supervision, administrative mediation, administrative powers, educational disputes, Administrative Mediation Unit.*

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Administrative mediation offers a particularly valuable space for addressing professional conflicts that arise within public organizations and, in particular, in the educational sector. It is not a matter of replacing the application of the law or exercising powers that fall exclusively within the authority of the Administration, but rather of asking whether it is possible to listen first, gain a better understanding of the conflict, repair its consequences, and contribute to a more proportionate decision.

The inspection function plays a significant role in this context. The Organic Law of Education assigns educational inspectors functions related to guidance on school coexistence, participation, and conflict resolution, including promoting and participating, when necessary, in mediation processes. This role has been further strengthened by the Royal Decree 68/2026, which regulates educational inspection. There is therefore a regulatory basis for moving toward an inspection system that, alongside its traditional functions of supervision, evaluation, and oversight, can also contribute to the prevention and appropriate management of conflicts.

The scope for action is broad. Conflicts involving public employees do not necessarily begin with disciplinary proceedings. They often arise from communication problems, the distribution of tasks, contradictory instructions, the exercise of management responsibilities, organizational changes, or the deterioration of professional relationships. Early intervention can prevent an initially manageable disagreement from developing into a breakdown in the professional relationship or into disciplinary proceedings.

The issue becomes more delicate when there are indications of disciplinary liability. In such cases, the different roles must be clearly separated. The investigating officer conducts the investigation, the mediator

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facilitates the mediation process, and the competent authority makes the decision. Mediation cannot become a covert evidentiary procedure, nor can it be used to obtain confessions, establish culpability, or negotiate the exercise of disciplinary authority. Its purpose is different: to identify the interests and needs involved, understand the underlying causes of the conflict, and explore possibilities for repairing the situation and improving the professional relationship.

This is where restorative justice offers a complementary perspective. Rather than adopting an exclusively retributive approach, it raises other questions: What harm has occurred? Who has been affected? What can be repaired? What commitments can help prevent the conflict from recurring? Acknowledging an impact, correcting a communication, restoring channels of coordination, or making verifiable commitments regarding conduct can help rebuild a professional relationship without undermining procedural safeguards or creating sanctions outside the framework of the law.

Experience also suggests the need to institutionalize these mechanisms. An Educational Mediation Office or Unit, staffed by trained professionals who are independent from the disciplinary investigation and decision-making processes, would make it possible to establish referral criteria, safeguard voluntariness and confidentiality, and monitor compliance with agreements. Educational inspection could play an essential role in the early detection and referral of conflicts and could even participate as a facilitator when the necessary conditions of competence, training, and impartiality are met.

Administrative mediation does not, therefore, entail relinquishing authority or transferring public powers. Rather, it means incorporating a different approach to conflict into administrative action. Mediation does not mean refraining from making decisions; it means seeking to understand the

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situation better before doing so. And in an educational system undergoing profound transformation, preventing conflicts, repairing their effects, and learning from them also constitutes a way of exercising oversight, improving the organization, and safeguarding the public servic

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