



*A ONE DOT
Sharing Neutrals Program*

ALTERNATIVE DISPUTE RESOLUTION

MEDIATION:

A Way of Resolving Disputes



THE POLICY OF THE DEPARTMENT OF
TRANSPORTATION PROHIBITS DISCRIMINATION ON
THE BASIS OF RACE, COLOR, NATIONAL ORIGIN,
RELIGION, SEX, AGE, DISABILITY, REPRISAL OR
SEXUAL ORIENTATION.

describes the ground rules for the mediation session. The matter prompting the complaint (DISPUTE) is described and both parties to the dispute provide information on the situation from their personal perspectives.

After each party has had the opportunity to speak, the mediator may ask questions to clarify or elaborate on the matter(s) discussed. This is done in a JOINT SESSION with both parties present. The mediator may continue with a series of private meetings (CAUCUSES) where the mediator explores various options for resolving the dispute.

During a caucus, each party has the chance to suggest possible solutions to the conflict. These options are explored and refined until a mutually acceptable agreement is reached, or a decision is made by the parties to discontinue the session.

WHO CAN INITIATE MEDIATION?

An employee who contacts an EEO counselor regarding his/her belief that an action or situation in the workplace occurred due to unlawful discrimination will be informed of the **EEO ADR (MEDIATION)** Program.

If the employee elects to have his/her concern(s) mediated, the case will be evaluated by the Operating Administration's Civil Rights Office to determine whether mediation is appropriate. If a determination is made that mediation is appropriate, the OA's Civil Rights Office will refer the request to the ONE DOT Sharing Neutrals Mediation Coordinator. The Mediation

WHAT IS THE ONE DOT SHARING NEUTRALS PROGRAM?

The ONE DOT Sharing Neutrals Program is a Department-wide program that uses MEDIATION to quickly resolve employment disputes during any stage of the EEO complaint process. It is established pursuant to the requirements of 29 CFR Part 1614.

WHAT IS MEDIATION?

Mediation is a process to help disputants resolve employment disputes and reach a mutual agreement.

A neutral mediator assists disputants in reaching a voluntary, negotiated agreement. Mediation offers the disputants:

- An opportunity to be heard;
- An opportunity to develop new ways of dealing with a dispute;
- An opportunity to create a mutual solution(s) that is binding on the parties.

WHO IS THE MEDIATOR?

A MEDIATOR is a trained professional in conflict resolution, specifically, the mediation process. The mediator serves as an impartial party and does not take sides or render a decision on the merits of the dispute.

WHAT HAPPENS IN AN EEO MEDIATION?

The mediation process begins with an INTRODUCTION in which the mediator

Coordinator will assign the mediator(s) and coordinate a mediation session with the participating parties.

Operating Administrations which have internal ADR Programs will refer complainants to the ONE DOT Sharing Neutrals Coordinator only under the following conditions:

- There is no mediator available in the internal ADR program;
- The complainant states that he/she wants to use a Shared Neutrals mediator; or
- The Operating Administration's Civil Rights Office has determined that it is appropriate to use a ONE DOT Shared Neutrals mediator.

Employees must be referred to the Mediation Coordinator by their OA's Civil Rights Office. When an employee contacts the ONE DOT Sharing Neutrals Mediation Coordinator directly, the employee will be referred to the appropriate OA's Civil Rights Office pursuant to established procedures.

A supervisor, manager, or a Departmental EEO official may also refer parties to the ADR Program Coordinator to explore possible mediation of an EEO related dispute.

ARE MEDIATION SESSIONS CONFIDENTIAL?

All conversations and materials produced during mediation sessions are **STRICTLY CONFIDENTIAL**. The mediator does not disclose or discuss with anyone outside of the mediation session anything that occurred between the parties. The parties

agree in writing not to disclose any information regarding what occurred in the mediation session without the expressed consent of the mediator **AND** the other party. Moreover, each party agrees in writing **NOT TO** request the mediator or the other party to testify regarding statements made in the mediation session.

MEDIATION IS NOT LITIGATION!

As stated earlier, a mediator does not determine who is right or wrong. Both points of view are valid and the parties work together to create their own solution. Mediators do not provide legal advice. However, either party may have a representative or legal counsel present during the mediation session.

Mediation is NOT EEO Counseling or EEO Investigation

The mediation process acknowledges the emotional issues in a conflict and focuses on finding a workable solution to the dispute rather than focusing on the causes or who is at fault. Participation in a mediation session assists the parties in resolving problems in a constructive manner. Mediation saves time, expense, and the emotional distress of living with unresolved conflict in the workplace. Mediation promotes a renewed, positive working relationship between parties, and enables the mission of the Department to be accomplished without prolonged disruption.

IS THE RESOLUTION A WRITTEN, BINDING AND LEGAL ARRANGEMENT?

MEDIATION does not favor the complainant or management, but rather, **FACILITATES RESOLUTION OF DISPUTES** in a manner that is satisfactory to the parties involved. When the parties agree on a mutually acceptable solution to the dispute, a written agreement is developed by the mediator, which all parties to the mediation sign.

This document reflects that the **EEO COMPLAINT** is resolved.

However, when there is no resolution, this too is documented and the complainant has the right to resume the EEO complaint process.

An agreement reached in mediation has the same effect as any other settlement agreement through the EEO complaint process, i.e., the agreement is binding on the parties and is **LEGALLY** enforceable.

WHO CAN TERMINATE A MEDIATION SESSION?

Participation in mediation is **VOLUNTARY**. Either party may withdraw from the mediation at anytime, without affecting the processing of the charge through the traditional administrative EEO complaint process.

ARRANGING THE LOCATION

The mediation typically takes place where the dispute arose. The employee must perceive that the recommended or suggested location is neutral. This means the mediation cannot take place in the manager's conference room or office. The location should have adequate space to seat all parties to the mediation comfortably, and should be near at least one private room where each party may individually caucus.

FOR FURTHER INFORMATION, PLEASE CONTACT

The OA's Civil Rights Office
or
The U.S. Department of Transportation
Departmental Office of Civil Rights
Tel. (202)366-ADRI/4648
TDD: 366-9696

All Operating Administrations and Departmental Offices participate in the ONE DOT Sharing Neutrals Program

The Federal Aviation Administration (FAA) and the United States Coast Guard (USCG) have internal Alternative Dispute Resolution Programs (ADR), for resolving EEO matters. If you are an employee of one of these OAs, please contact the appropriate Civil Rights Office for additional information regarding the internal ADR programs.