

ORM NEWS

**From the Office of the Deputy
Assistant Secretary for
Resolution Management
Department of Veterans Affairs**



February 2003

From the Deputy Assistant Secretary

VALUE-ADDED SERVICES



We have developed a variety of innovative programs and services that we believe, when combined with our discrimination complaint processing activities, will be helpful in addressing many of the issues affecting the workplace. These value-added services include: Alternative Dispute Resolution (ADR) Programs; Mediation Training Courses and Videos; Environmental Assessments; Root Cause Analysis Report; and Web Based Tracking System. The following is a description of these services and programs.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

ORM is committed to the resolution of disputes at the lowest organizational level and has devoted enormous effort and resources toward promoting the use of Alternative Dispute Resolution (ADR). Although information regarding ADR is provided to individuals involved in an EEO complaint, there is a critical need to promote the value of ADR to VA managers and other employees not immediately involved in the EEO complaint process.

Whenever opportunities arise, ORM communicates the positive effects early resolution efforts often have on workplace disputes so that, ultimately, employees can concentrate on providing high-quality service to veterans. During FY 2002, the Deputy Assistant Secretary of Resolution Management made numerous presentations - to such groups as the 2001 and 2002 Leadership VA classes, the Veterans Health Administration's (VHA) National Leadership Board, the Equal Employment Opportunity Commission (EEOC) Chairperson and the EEOC EXCEL Conference, Regional EEO Conferences and VA field facilities - to underscore the importance of addressing workplace disputes as early as possible.

To ensure VA's compliance with the EEOC requirement to incorporate ADR into the complaint process, ORM's ADR plan is being incorporated into the agency's EEO management directive. During meetings with the Under Secretary for Health and the Deputy Under Secretary for Benefits, discussions have focused on the need to assess existing ADR programs and develop strategies for expanding the use of ADR.

MEDIATION TRAINING COURSES

During FY 2002, ORM sponsored six executive mediation sessions in Atlanta, Georgia, and trained 116 senior managers. A total of 324 senior executives have received ORM sponsored mediation training since FY 2000. The training included developing basic mediation skills, promoting VA mediation initiatives, and providing information to enable VA executives and managers to market mediation as a means for resolving workplace disputes. A six-hour mediation awareness training session, for all VA executives and managers in VA Central Office, was conducted in January of 2003. ORM led the planning and implementation of VA's ADR/Mediation train-the-trainer initiative. Since the beginning of FY 2001, 30 trainers have completed this program and are now qualified to conduct ADR awareness training.

MEDIATION TRAINING VIDEOS

The Learning Resource Center revised our video, *The Mediation Zone*, that is now used throughout the Department for mediation awareness training and orientation. Copies of this video are available at ORM field offices and copies will be made available to facility ADR coordinators during FY 2003. Facility ADR Coordinators are encouraged to use the video as a marketing tool for their network/facility ADR programs. ORM will also provide brochures and posters to help publicize ADR. Another video, *Coaching the Student Mediator*, focuses on methods for training new mediators. Copies of both videos can be obtained by contacting the Learning Resource Center.

ENVIRONMENTAL ASSESSMENTS

To identify potential workplace issues, the Organizational Climate Assessment Program (OCAP) provides facility management feedback from employees and supervisors regarding how they perceive their workplace environments. Through meetings with facility management, employee focus groups, and employee surveys, OCAP is able to provide managers with an analysis of systemic issues they may have been unaware of and specific recommendations to address them. During FY 2002, environmental assessments were conducted at two VA medical facilities and one VA regional office.

OCAP promotes improving workplace environments and preventing EEO complaints in VA by encouraging early intervention and resolution. In addition, OCAP assists facilities' efforts to buoy workplace morale, increase productivity, improve communication, and conserve financial resources, all of which enable VA employees and managers to focus on delivering high-quality service to our nation's veterans.

ROOT CAUSES ANALYSIS REPORT

ORM, through its Office of Policy and Compliance (OPC), prepares a quarterly root causes analysis report that provides senior VACO officials and field facility directors with information pertaining to issues that surface in the discrimination complaint process that do not appear to be discriminatory in nature. This report shows some of the possible reasons behind the filing of discrimination complaints that are not found to be rooted in discrimination. In Fiscal Year 2002, we made several changes to enhance the effectiveness of our root cause analysis report and will make additional improvements in FY 2003.

The title of the report was changed to *Root Cause: Preliminary Assessment of the Underlying Causes for Initiating Claims of Discrimination*. The report was expanded to include an analysis of a wider variety of the underlying causes of complaints such as harassment (non-sexual), sexual harassment, working conditions (hostile), and failure to promote.

WEB BASED TRACKING SYSTEM

Statistical data for discrimination complaint processing is maintained in ORM's Web Based Tracking System (WBTS). The WBTS was established to serve as the permanent, nationwide ORM database. The information allows local facility management to have immediate access to complaint data, which can help to identify key issues surrounding conflicts easily. Because data is entered into the system at each stage of the complaint process, field facilities can design internal procedures to try to resolve conflicts as early as possible and pinpoint potential problems.

Our goal is to help create an Employer of Choice environment in VA through our discrimination complaint processing and value-added services. Our complaint processing activities and our value-added services and programs are integral parts of our Employer of Choice strategy. Together, they enable us to better identify the causes of complaints, resolve complaints in an effective and timely manner, and reduce or eliminate future complaints. In effect – improve our ability to better serve our stakeholders and customers by focusing on our mission:

“To provide timely and high quality complaint processing and promote a discrimination-free work environment through education, training, prevention, and early resolution.”

Our success in being recognized as an important resource to the Department is based on our ability to adapt to our changing role as we strive to meet and exceed the expectations of our stakeholders.

James S. Jones

Articles in this month's edition of ORM News include:

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Highlights of Regulations and Programs

OGC Role in Witness Testimony before an EEO Investigator

By John Klein, Assistant General Council, Professional Staff Group IV

The view of Professional Staff Group IV, is that the longstanding policy of the Office of General Counsel - albeit an informal policy - is that when the VA investigates an EEO complaint, the General Counsel does not participate in or attend the taking by the investigator of a sworn statement from a witness, including the VA employee named as the Responsible Management Official.* Is this policy absolute? Perhaps not, under particularly compelling circumstances, but I do not recall a circumstance in which we supported an exception. Our rationale follows.

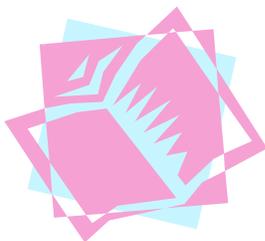
1. The law provides: The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective (38 USC 516(a)). An EEO complaint is investigated to provide the Secretary, as well as the complainant, with a fair and objective portrayal of the matter. The investigatory phase of a complaint, unlike the hearing phase of a complaint, is intended to be a non-adversarial, administrative inquiry, with which all employee witnesses are required to cooperate. Appearance of an OGC attorney with or on behalf of a witness is incompatible, in fact or in appearance, with the non-adversarial nature of the investigation.
2. By law: The General Counsel is the chief legal officer of the Department and provides legal assistance to the Secretary concerning the programs and policies of the Department (38 USC 311). Thus, the lawyers of the OGC are counsel for the Secretary; they are not the representative of a witness. Even in the hearing phase, the OGC agency representative is advocating for the Department, he or she is not the personal representative of the individual witness. The Office of General Counsel is obliged to provide objective legal services to all components of the Department, consistent with the Secretary's needs and law, and must support the non-adversarial nature of the investigation phase of EEO complaint processing.
3. Even if an OGC attorney were to appear with a witness during an investigation, the value of such appearance to a witness is questionable. The witness in an investigation, based on his or her best recollection, must give a complete, responsive statement. The witness has that duty; the attorney cannot remove it. The attorney cannot speak for the witness nor "place words in the witness' mouth".

4. Any question of accurate reproduction of a statement can and should be addressed when a copy of the investigator's transcript is provided for review and signature. ORM procedure now provides that every witness will be given the opportunity to review and sign his or her statement, and he or she should identify any material inaccuracies in the statement and address them when returning the statement to the investigator.

5. An OGC lawyer is authorized to provide legal guidance to a witness, including the Responsible Management Official, prior to the time of a statement. The lawyer can explain the process, the respective responsibilities of all involved, encourage the witness to provide a full and complete statement on the matters being inquired about, and assist the witness in identifying aspects of his or her view of the matter which are of particular importance in the compilation of the investigatory record.

6. An OGC lawyer is also authorized to assist the VA in reviewing the investigative summary to ensure that it accurately reflects all evidence, including the testimony of the witnesses. Any apparent material inconsistency may and should be brought to the attention of the appropriate ORM official, e.g., the ORM Field Manager, by management. Similarly, management should advise ORM if there is any question about the conduct of an investigation.

*Except in that unusual circumstance in which the ORM investigates by conducting a fact-finding conference.



Are You Ready? A Guide to Citizen Preparedness

The Federal Emergency Management Agency (FEMA) has published and recently updated, *Are You Ready? A Guide to Citizen Preparedness*, a comprehensive guide to personal emergency preparedness to help individuals prepare themselves and their families for disasters. *Are You Ready?* provides a step-by-step outline on how to prepare a disaster supply kit, emergency planning for people with disabilities, how to locate and evacuate to a shelter, and even contingency planning for family pets. Man-made threats from hazardous materials and terrorism are also treated in detail.

The web address is www.fema.gov/areyouready.

WHISTLEBLOWER PROTECTION

Secretary Principi has issued a memorandum indicating his commitment to fostering a corporate culture where employees feel free to voice their legitimate concerns without fear of reprisal. Employees have the right to voice concerns about what they feel is a violation of any law, rule or regulation or gross mismanagement, gross waste of funds, abuse of authority, or a substantial danger to public health or safety. Whistleblower procedures, when used appropriately, empower employees to report concerns without fear of adverse actions being taken against them.

Protecting employees' rights is not only a statutory obligation; it is also good business. It protects VA's most valuable asset – its employees, promotes continuous improvement, and supports VA's strategic goal of being an employer of choice. Managers and supervisors have a responsibility and will be held accountable for enforcing standards of appropriate workplace behavior, and they are expected to take prompt action to deal with any conduct identified as reprisal based on whistleblowing. This includes taking appropriate disciplinary action when circumstances warrant.

Information on whistleblowing protections can be found on the OHRM Intranet Web site at <http://vaww.va.gov/ohrm/EmployeeRelations/Grievance.htm>.

Employee are encouraged to familiarize themselves with this information and managers are reminded of their responsibility to maintain a workplace that respects its employees' ability and right to raise legitimate concerns without fear of retribution.

Thrift Savings Plan Rates for January 2003

(From Gov.Exec.com – 2/6/03)

January's rates of return appear below. The numbers in parentheses are negative.

	G Fund	F Fund	C Fund	S Fund	I Fund
January 2003	0.35%	0.10%	(2.67%)	(2.35%)	(4.24%)
Last 12 Months (2/1/2002-1/31/2003)	4.89%	9.52%	(22.99%)	(18.42%)	(15.00%)

Office Notes

...Thank you...

As I embark upon a new dimension of ORM, I would like to sincerely thank all of you so very much for two of the most enriching years of my career. I wish you the best in your future endeavors - both personal and professional. You should always remember that "change is inevitable and teamwork is the Key that will unlock your dreams."

Brenda Stamps,

Customer Service Program Manager

Learning Resources

Congratulations to Michael Michael Jr. the son of **Kathy Michael**. Michael, a senior at Seminole High School in Seminole, Florida, received 2nd place out of 225 entries in the Salvador Dali Museum's Student Surrealist Art Exhibition that was recently held in St. Petersburg, Florida. Art work from 18 high schools and 11 middle schools in Pinellas County, Florida were on display.

Washington Field Office

Lamont Johnson, ADR and Environmental Assessment Programs Co-Leader, served as a co-mediator, along with **Gwendolyn Gantt**, in a mediation session on January 29-30, 2003, at the VA Medical Center in Washington, DC. Their efforts resulted in a binding settlement agreement between the parties. Hats off to Lamont for successfully conducting his first co-mediation and to Gwen for her mediation expertise.

Darrell Ford, EEO Intake Specialist, left ORM, on February 7, 2003, to become the Administrative Officer for Clinical Support Service at the Fayetteville VAMC. Darrell joined ORM during its inception in February 1998. Commenting on his time with ORM, Darrell stated that he "will truly miss my entire ORM family and the wonderful experiences I had while working with everyone in ORM" and that his "greatest

accomplishment while working at ORM was learning how to resolve complaints through mediation." Congratulations to Darrell on his selection.

John Jones, Investigator/Mediator, was recognized for his "outstanding job" as an instructor for the Basic Skill Mediation training course on January 27 to 31, 2003, in Chicago, Illinois. Class participants included employees from the Social Security Administration, Federal Aviation Administration, Equal Employment Opportunity Commission (EEOC) Adjutant Judges, Office of General Counsel, and the Department of Veterans Affairs. Trudy Lewis of the EEOC sent a note of thanks to Mr. Jones, Deputy Assistant Secretary for Resolution Management, stating "the dynamic and hands-on approach the instructors took allowed all participants to learn and practice, and then learn and practice some more! The rapport between the four instructors contributed greatly to the success of the class and allowed everyone to enjoy themselves throughout the week." Congratulations to John for a "job well done."

Did You Know?

Black History Month

"The Souls of Black Folk"

VA proudly joins the Nation in celebrating Black History Month in February. This year's theme is "The Souls of Black Folk." In 1915, educator and historian Dr. Carter G. Woodson founded the Association for the Study of Negro Life and History, which later was renamed the Association for the Study of African American Life and History. It was through this organization that Negro History Week was first celebrated in 1926 and subsequently Black History Month was established in 1976. To discover more Black history resources and links, visit the DM&EEO Web site at <http://www.va.gov/dmeeo/bhm.htm>.

5 tips for getting out of career purgatory

So you've survived the recession with your job more or less intact, but now you're finding few opportunities for promotion. There isn't any money for special projects to prove yourself, and nobody above you is leaving. You are a layoff survivor in career purgatory.



Your instinct may be to stop taking risks, try not to stand out. But career coaches, recruiters and managers all agree that now is not the time to lay low. It is important to take charge of your career if you want to move up.

Here are five ways you can create opportunities and avoid fading into the office woodwork:

1. ***Increase your visibility.*** Join task forces, speak up at meetings and volunteer for projects that no one else wants to touch.
 2. ***Make new allies.*** Work on building and maintaining relationships both inside and outside the office. Networking can make a big difference, especially during financially challenging times.
 3. ***Acquire new expertise.*** Even if your company can't (or won't) pay for classes, you should find some way to add new skills to your resume. For example, one aspiring CFO who didn't quite have the experience to land the job she wanted volunteered at a not-for-profit as a temporary chief financial officer. She beefed up her resume and got the chance to learn from her mistakes without jeopardizing her career.
 4. ***Don't be satisfied with doing just what's listed in your job description.*** Look beyond what's expected and take the initiative. Arrive early, stay late and offer to take on extra work. Consider setting aside an hour every day for tackling a new initiative.
 5. ***Be your own PR person.*** Getting promoted is half productivity and half publicity, so look the part you want. Pay attention to your appearance, i.e. your clothes, your body language and general grooming. Keep a positive attitude and stay organized. Hire a career coach if you need the extra help.
- adapted from Fortune

ORM NEWS is a monthly publication of the Office of Resolution Management. Please E-mail Terry Washington, External Affairs Program Analyst, or Tyrone Eddins, External Affairs Program Manager, to submit your recommendations, suggestions, or comments on the information presented in this newsletter. We can be reached at (202) 501-2800. Back copies of the newsletter can be found on ORM's Web site at <http://www.va.gov/orm/NewsEvents.htm>.