



# Office of Resolution Management

*Department of Veterans Affairs*

## **MEDIATION PROGRAM INFORMATION SHEET**

### **What Is Mediation?**

Mediation is an informal way for employees to address disputes with a fellow employee, manager, or colleague. In mediation, a neutral person called a mediator helps two or more persons explore ways to resolve their differences and reach an agreement that best addresses their interests. Mediation allows the parties to create their own unique solutions, instead of taking the problem to an outside decision-maker and having that person's solution imposed on them.

Mediation does not focus on who is right and who is wrong. It focuses on forward thinking and solving the problem. The mediator has no authority to make decisions for the parties. The parties decide what is important to each of them and make decisions based on those factors. The mediator helps the parties communicate, make informed decisions by understanding and listening to each other, and work together to create options and acceptable solutions.

### **Why Should I Request Mediation?**

While conflict is a natural part of our daily lives, unresolved disputes may become unproductive and negatively impact the work environment. In these instances, mediation can save time and resources for all involved. Mediation can improve communication and prevent future misunderstandings. Mediation provides an opportunity to discuss sensitive issues and concerns in a private setting. Mediation helps the parties to look realistically at the best and worst case alternatives to resolving the dispute, and when possible, develop mutually satisfactory solutions. By agreeing to mediate, neither party gives up any rights to other processes that may be available to address the dispute. Parties can designate a representative to attend the mediation and provide support and advice during the process.

### **How Does Mediation Fit Into The EEO Process?**

An individual who has initiated the EEO complaint process may advise an Office of Resolution Management (ORM) EEO counselor of his/her interest in mediation as opposed to EEO counseling. If the individual wishes to pursue mediation to resolve the issues of the EEO complaint, management must participate if the issues do not pertain to waste, fraud, abuse, patient abuse, criminal activity, or an investigation actively being conducted in a forum other than EEO where the subject of the allegations is the individual who has initiated the EEO complaint. The pre-complaint process will then be extended for no more than 90 calendar days from the individual's date of initial contact with the EEO counselor to allow the parties to mediate. If mediation does not resolve the matter, the EEO counselor will advise the individual of his/her right to file a formal EEO complaint.

After a formal EEO complaint has been filed, the complainant may request mediation at any time during the processing of his/her complaint.

## **How Do I Begin The Mediation Process?**

The mediation process is initiated by contacting the ORM EEO specialist assigned to the EEO complaint or the ORM's ADR Program Office. If all parties agree to mediate, the ORM ADR Program Office or Facility ADR Program Manager obtains mediators from within VA or another Federal agency, depending on the parties' preference. In some instances, where a party is a member of the bargaining unit, the union will be notified of and invited to participate in the mediation session. If the EEO complaint is deemed inappropriate for ADR (issues pertaining to waste, fraud, abuse, patient abuse, criminal activity, or an investigation actively being conducted in a forum other than EEO where the subject of the allegations is the individual who initiated the EEO complaint), VA Form 0889c must be completed; signed by the appropriate manager, supervisor, or key staff official and routed through the appropriate channels, then uploaded into the VA ADR Tracking System.

## **What Happens During The Mediation Session?**

Generally, the mediator begins with an introduction, explaining the process, each party's role, and establishing ground rules. Then, each party is afforded an opportunity to share information about the dispute. The mediator may continue with all parties in a joint session, exploring ways to address the issues raised or the mediator may meet separately with each party in private caucuses. Any information shared only with the mediator will be kept confidential unless permission is given to the mediator to disclose to the other party. If the parties can find common ground and agree to terms, the terms are documented in an agreement.

## **What If An Agreement Is Reached?**

A written agreement is drafted and submitted to the Office of General/Regional Counsel (OG/RC) for concurrence. Once concurrence is provided by OG/RC, the agreement is signed by all necessary parties. Once the agreement is signed by all parties, the contract is binding and enforceable. The parties may agree not to disclose the terms of the agreement to those who do not have a need to know; however, the document itself is not confidential and may be disclosed to establish compliance.

## **What If An Agreement Is Not Reached At The Informal Stage?**

The ORM EEO counselor will advise the individual of his/her right to file a formal EEO complaint.

## **What If I Have More Questions?**

If you would like additional information, please contact the ORM ADR Program Office at 202-461-0280, or the ADR Program Manager at your facility:

[http://vaww.va.gov/adr/docs/ADR\\_Program\\_Managers.pdf](http://vaww.va.gov/adr/docs/ADR_Program_Managers.pdf)