

## VA Adopts New Neutrals Certification Standards Greg Burke

On October 1, 2010, Assistant Secretary for Human Resources and Administration John U. Sepúlveda signed VA Directive 5978.2: Alternative Dispute Resolution Neutrals Certification Handbook (the Handbook), which is certified and available electronically. The Handbook represents a milestone in VA's implementation of its policy to encourage the use of Alternative Dispute Resolution and to provide increased opportunities under the ADVANCE initiative to provide employees an opportunity to grow their skills and further their professional development.

The Handbook allows employees who have an interest, the support of their supervisors and of their local ADR coordinators to apply to become certified or recertified as neutrals, i.e., mediators, facilitators, group facilitators, or mentors to assist agency managers, staff or organizations to resolve disputes.

### Certification Requirements

The Handbook requires each category of neutral (mediator, facilitator group facilitator, and mentor) to have formal training (including 3 hours of training in EEO law and practice) and qualifying experience for certification within the 24 months before applying for certification. Specifically, the Handbook requires:

- Mediators to have 32 hours of basic mediation skills training, 3 hours of training in Equal Employment Opportunity law and practice and to have mediated or co-mediated 4 workplace disputes, with at least two EEO case mediations with a VA certified neutral with positive evaluations. Recertification for mediators requires 20 hours of refresher training and similar co-mediation experience.
- Facilitators to have 32 hours of basic facilitation skills training and 8 workplace dispute facilitations or co-facilitations, at least 4 of which should be EEO disputes and facilitated with a certified VA neutral with positive evaluations. Recertification of a facilitator requires 16 hours of refresher training in facilitations and the 8 facilitations as required for certification as a facilitator.
- Group facilitators to have 32 hours of group facilitation skills training and 3 group facilitations (1 EEO related) facilitated with a VA certified neutral with positive evaluations. Recertification as a group facilitator requires 16 hours of refresher training.

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## Five Sure-Fire Ways To Cause Conflict At Work

### Vivian Scott

Being pegged as a troublemaker on the job doesn't do much for building a reputation as a team player--or a leader, for that matter. Whether you're looking for your first real job or can see the light at the end of a lustrous career tunnel, it makes good business sense to be aware of how your actions with coworkers can either create a positive working environment or turn an otherwise slightly dysfunctional workplace into a fully-armed battlefield. As a professional mediator, I've seen my share of office politics and soured working relationships. Though it could be said that each workplace is unique, over the years I've discovered that there are some fairly common ways people cause problems with co-workers that they later come to regret. Of course, few purposely set out to create conflict and many would like to blame anyone but themselves when troubles on the job occur, but rest assured there are certain behaviors that are more apt to cause problems than others. Avoid landing in hot water by steering clear of these common mistakes:

#### 1. Starting every sentence with "Listen, You Idiot..."

Never filtering anything you say can feel good in the moment--but only to you. Belittling, shaming, or embarrassing co-workers tags you as the office bully. If respect is important to *you* (and you know it is), developing an attitude that you can disagree with someone without name-calling, over-emphasized sighs, eye rolling, or verbal insults demonstrates your ability to address a troubling situation respectfully without making it worse.

Instead of approaching colleagues with the attitude that negative motivation is the best tactic to get them to act ("*Are we still paying you?!*"), adopt an attitude that any kind of personal bashing has no place in a successful business. Sharing positive feedback or giving praise doesn't create a team of wamby pamby babies who need constant coddling. Rather, it creates an environment in which others are free to compliment you as much and as often as you compliment them. What goes around comes around so think before you speak.

#### 2. Working on the premise that only your ideas count

Taking action without consulting anyone else can start some really good fights! If you're looking for the thrill of a slow burn aimed at you from colleagues who are sick and tired of your Monday morning memos surprising them with decisions they had absolutely no say in, then by all means only use your ideas. Doubting a co-worker's ability to contribute to your success or believing that constructive criticism is just a backdoor way for him to sabotage you can be a mistake. Of course there's always the exception to the rule, but if a colleague is trying to warn you of potential pitfalls, take him seriously. Even employees beneath you in the org chart have the wherewithal to come up with great solutions, so be open to a variety of ideas from a variety of sources.

Asking a few well-placed questions before jumping to the finish line will show others that you are mindful and capable of seeing the bigger picture. Being arrogant, paranoid, and thinking that you have to make all the decisions by yourself can weigh heavily on you. I've found that if more than three people have told you the same thing about your behavior or attitude towards decision making, it doesn't mean there's a sinister plot in the works, it means it's time for an adjustment on your part.

\*Reprinted from Mediate.com (10/4/10)

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## Five Sure-Fire Ways To Cause Conflict At Work

### 3. Pitting people against each other in the name of healthy competition

Sparring is a technique that works well for world-class boxers but throwing unsuspecting co-workers into the ring doesn't toughen them up; it just makes them angry when they figure out that you're the one orchestrating the tension between them. Some believe that pitting employees against each other is a great way to eke out a few more sales or get a project finished sooner. But doubling or tripling efforts on the same task doesn't result in a positive outcome if employees are tripping over each other with too much energy focused on getting upset with one another and not enough attention on getting the job done. Sure, the team may look busy and all aflutter but where there's smoke there's fire and smoldering colleagues can cause a lot of smoke. Asking more than one person to work on a task and then picking a favorite doesn't benefit anyone either; the 'winner' is put in an awkward position with her peers and the 'loser' is humiliated.

Similarly, taking a "with us or against us" attitude or making disparaging remarks about other groups may create new conflicts out of old rivalries. Rather than using competition as a way to squash others, find a way to create and build a new definition of success. If you'd like personally to get noticed for a job well done, then do a good job of building people up based on their individual strengths and talents and they'll return the favor. Competing against oneself--and winning--is always the most satisfying (especially at review time!).

### 4. Believing that mystery is a good thing (like in dating)

Matchmakers claim that mystery can be intoxicating when you first meet a potential mate, but attempting to be coy at work frustrates people. Using wimpy language like "when you get to it," giving hazy instructions before running out of the room, or making someone else break the news to a co-worker that he's not going anywhere until he finishes the marketing plan will create problems. You won't be seen as the good guy if you let vagueness become your communication standard. Avoid being the employee whose behavior can best be described as "trying to nail gelatin to the wall." Don't let others think you're on the same page and then bamboozle them with the complete opposite. One by one your colleagues will lose all trust in you and your boss may take on the mindset that you're not someone who can be counted on because your word means nothing.

Your co-workers will appreciate clear, concise language. Remember, it's okay to disagree but be professional enough to give people the opportunity to know what it is they're disagreeing *with*. It's much easier to come to resolution on real issues than it is to play 20 questions or resolve the wrong problems.

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## Word Challenge

**Editor’s Note: Please email [gregory.burke@va.gov](mailto:gregory.burke@va.gov) upon completion of the Word Challenge. The first person to complete and give notice of the Word Challenge will be recognized in the next edition of the ADR Newsletter.**

- A. Helpful to inexperienced neutral
  - B. Confidential
  - C. Statements under oath
  - D. Designed for civility (2 wds)
  - E. Union Representative
  - F. Injury
  - G. Power to settle
- Answer:

## Five Sure-Fire Ways To Cause Conflict At Work

### 5. Never admitting you’ve done anything wrong

Don’t let `em see-ya sweat and never, ever admit when you’ve made a mistake! That’s a very familiar adage, but I’m not sure when that advice is actually *good* advice. Ignoring occasions for self-reflection or side-stepping learning opportunities makes others feel they need to organize an inquisition against you. The fight becomes the focus rather than the work. Hiding or ignoring the fact that you’ve mishandled a situation or slinking around as a means to garner sympathy for poor outcomes takes a lot more energy than it does to humbly own up to an error and work to repair whatever damage your actions may have caused. If you find that the above insights are coming a little too late for your current situation, keep in mind that the easiest way to deflate anger with a co-worker is to listen to her perspective, come clean about your participation in the conflict, and work together to figure out to avoid similar situations in the future. Simply keeping your blinders on and only worrying about yourself isn’t enough. Consider her point of view (remember, understanding her perspective doesn’t mean you agree) and see if you can come up with a solution that can satisfy both of you. Your co-workers and career will thank you.

## VA Adopts New Neutrals Certification Standards

- Mentors to have 16 hours of mentoring training, experience in mediating or facilitating 12 workplace disputes (6 EEO cases) with positive evaluations, Recertification only requires 16 hours of mentoring training.

All certifications and recertifications are for 24 months.

### Waivers and Decertifications

The Handbook allows applicants to request waivers or substitutes in the certification and recertification requirements for training and experience where circumstances prevent those requirements from being met. The Deputy Assistant Secretary for Resolution Management (DAS) has the authority to approve all applications for certification and to grant waivers or extensions.

Importantly, the Handbook also provides the DAS authority to decertify or condition the certification of any certified neutral upon credible evidence of a certified neutral's misconduct and after providing the certified neutral an opportunity to be heard.

Previous VA policy provided for certification for a 24 month period of mediators with no provision for waiver of certification requirements.

### Roster of Certified Neutrals

Each certified neutral will be listed on an intranet webpage roster showing their name, location and certification. Each neutral will have the opportunity to embroider the roster's description of their certification status with information concerning their education, training, mediations, or facilitations conducted, areas of specialty or any other information that may enhance their reputation and desirability as neutrals.

### Existing Certifications

The Handbook allows employees certified or recertified under VA's Mediator Certification Program, which the Handbook rescinded, to retain their status until it lapses after the original 24 month certification or recertification period. Subsequent certification or recertification must comply with Handbook requirements.

### Other Certification Programs

Consistent with the ADVANCE initiative for the development and growth of the professional skills of VA employees, the new Neutral Certification policy will allow employees with an interest in ADR or conflict management to receive credentials for developing those skills and promote, through the "Roster," those qualifications.

VA's neutrals certification requirements are at least as demanding as those of most private or public organizations and government agencies and should be fully transferable. The ADR program is pursuing memoranda of understanding with other agencies to assure that VA neutrals certification may be accepted across agencies.

### Contact

For more information contact Zeke Reich, Neutrals Certification Program Coordinator at 202-461-0513 or zeke.reich@va.gov

## ADR at the Movies: “Sex and the City” (2008) starring Cynthia Nixon, David Eigenberg, and Joanna Gleason

In this movie, a couple’s reconciliation is facilitated through the assistance of an effective neutral.

Miranda (Cynthia Nixon), one of the movies’ principal protagonists, has been persuaded to reconcile with her unfaithful husband Steve (David Eigenberg). They enlist the services of an unnamed therapist (Joanna Gleason). During the brief therapy scene, the therapist enables both Miranda and Steve to voice their concerns about the other’s fidelity. In an interesting twist, Steve’s complaint that Miranda shut him out of her life before, if not leading to, his infidelity shocks her and causes her to consider his side of the relationship in a way that she had not before. Ultimately, the two parties reconcile their relationship.

A principal task of a neutral is to assure that each party in an ADR process is able to express their concerns openly and have their concerns understood by the other party. The most effective neutrals are able to do that without impressing themselves upon the parties. Kudos to the unnamed “therapist.” With minimal intervention, she allowed the two parties to express themselves and understand each other on the way to a resolution of their dispute.

### Dear Mediator:

Q. What should a mediator’s reaction be when a union representative insists on attending a meeting over the objection of an employee party? In [US Department of the Air Force, Davis-Monthan Air Force Base, Tucson, AZ and AFGE, Local 2924, 64 FLRA 845 \(5/28/10\)](#), the Federal Labor Relations Authority found that the Air Force violated a union’s statutory right when it denied the union access to a mediation between the Air Force and a bargaining unit employee. The employee had objected to the union presence.

A. Mediators are not responsible for assuring the presence of a union representative during mediation. Guide for Federal Employee Mediators, Standard VI.A.3 provides: “The presence or absence of persons at mediation depends on the agreement of the parties and the mediator.” A union official who is representing a union’s organizational interests rather than the employee’s, would not be a party to the mediation. In an EEO complaint, for example, although the union may have an organizational interest in the outcome of the complaint, it is not making allegations against the agency or charged with responding to allegations. Those responsibilities are left to the agency and the aggrieved employee, the parties to the dispute. Neither the mediator nor the employee will have any liability for the decision to exclude a union representative from mediation upon a party’s objection; nor would that exclusion void any binding agreement as a result thereof.



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## Knowledge and Skill in Managing Conflict and Resolving Disputes through Mediation

Managing Conflict and Resolving Disputes through Mediation training is a key initiative in VA's Transformation into the 21<sup>st</sup> Century, and one of several training programs and professional development services offered through **ADVANCE**. The Secretary, Deputy Secretary, and Assistant Secretary for Human Resources and Administration believe VA's senior leaders must possess the knowledge and skill to effectively manage conflict and resolve disputes. The Office of Resolution Management (ORM) will provide the resources and support needed to achieve this goal.

The Justice Center of Atlanta (JCA) provides "Managing Conflict and Resolving Disputes Training." The U.S. Government Accounting Office has recognized JCA, already well-known, as "one of the leading institutions in the United States for the practice and teaching of mediation."

"Managing Conflict and Resolving Disputes through Mediation" is a three day course and examines the factors that cause workplace conflict. It offers tools to use to prevent disputes from escalating and diverting time, resources, and energy from our mission. The course includes information on asking effective questions, dealing with difficult people, negotiation skills, and understanding the mediation process to better manage conflict. By spending in-depth time studying, discussing, and trying mediation techniques and communication skills, attendees will be able to adopt new approaches to dealing with workplace disputes and be better prepared to maximize positive results, benefiting your employees and, ultimately, the Veterans that we serve.

For additional information, contact Rita Reese at [rita.reese@va.gov](mailto:rita.reese@va.gov). Individuals can also register in VA's Learning Management System.

### Dear Mediator:

However, under law agencies may be liable for unfair labor practices for excluding any union from a mediation involving a bargaining unit employee. In Monthan Air Base, the agency was liable for excluding the union from the mediation; the employee was not.

Thus, if the parties exclude a union representative from attending mediation whether at the employee's or agency's behest, mediators may proceed with the mediation upon the agreement of both parties. Mediators should consider advising the parties, however, of the potential consequences of excluding the union representative from the mediation to allow an informed decision on that issue.

If any party or mediator does not agree with a decision to proceed with the mediation because of issues concerning union participation, a party or the mediator has the option of declining to participate in the mediation. The mediator could then withdraw from the mediation consistent with Federal standards that mediators withdraw from mediation if the conduct of either party warrants.





**Workplace ADR Program**

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**Mediation:  
A Solution to Workplace Disputes**

The Workplace ADR Program solicits articles for VA's quarterly ADR newsletter. The purpose of the newsletter is to communicate information relating to the use of ADR in workplace disputes and serve as a resource for those interested in learning more about ADR and its application within VA. We invite you to submit ideas and articles for the newsletter through your respective administrations: VHA to Roberto Rojo (10A2E), VBA to Johnny Logan (20M2), NCA to Nicole Maldon (40A), VACO staff offices to your VACO ADR Liaison, and labor organizations to your ADR Council Representative. We are looking for ideas and articles on ADR-related topics, noteworthy activities, initiatives, accomplishments, best practices, or other items designed to educate and inform VA employees and managers on ADR and its benefits in addressing workplace disputes. We hope the VA community will find the newsletters a useful resource for obtaining interesting and helpful information representing ADR activity throughout VA. For more information, visit our website at:

<http://vaww1.va.gov/adr/Newsletter.asp>

**1<sup>st</sup> Annual VA ADR and Diversity and Inclusion Award Recipients**



Back Row: Georgia Coffey, Susan Black, Adam Walms, Karen Hebda, Sylvia Jordan, Ralph Torres;  
Front Row: Jeanette Goff, Kara Merendo, Ryl Giacchetta

On July 23, 2010, the Secretary of Veterans Affairs presented the 1<sup>st</sup> Annual VA ADR and Diversity and Inclusion Awards. John U. Sepúlveda, Assistant Secretary for Human Resources & Administration (not pictured), Rafael A. Torres, Deputy Assistant Secretary for Resolution Management, and Georgia Coffey, Deputy Assistant Secretary for Diversity and Inclusion were among those attending the ceremony, shown above.