

ALTERNATIVE DISPUTE RESOLUTION PROGRAM

What is “Alternative Dispute Resolution?”

Alternative Dispute Resolution (ADR) is an alternative means of resolving disputes at any stage of the Equal Employment Opportunity (EEO) complaint process. The use of ADR is in compliance with the Alternative Dispute Resolution Act; Title 29 CFR, Part 1614. There are various methods of ADR, such as peer review, fact finding and Ombuds. The Office of Workplace Diversity (OWD) has chosen mediation as the principal ADR technique for early resolution of EEO complaints of discrimination at the Federal Communications Commission.

WHY AN ALTERNATIVE DISPUTE RESOLUTION PROGRAM?

An ADR program:

- Allows parties to resolve disputes themselves,
- Encourages open communication;
- Can improve working relationships; and
- Avoids protracted litigation

HOW DOES MEDIATION BEGIN?

INFORMAL COMPLAINTS - Within 45 calendar days of the matter alleged to be discriminatory or, in the case of personnel action, 45 calendar days of the effective date of the action, the complainant must contact an FCC EEO Counselor. This begins the “informal complaint stage” of the process in which the Counselor provides the complainant with information on both the ADR program and the standard EEO complaint process. The complainant may choose to pursue ADR as a means to resolve the complaint by signing an election form, which extends the usual 30-day counseling period to 90 calendar days. If the complainant does not elect ADR, the EEO Counselor continues with the traditional EEO counseling. The complainant may choose ADR during the formal complaint

The agency has discretion in all cases to determine whether mediation is suitable in a particular case. If the complainant chooses mediation, and the agency concurs that mediation is appropriate, OWD assigns a mediator and schedules a mediation conference. An employment dispute may be resolved by the complaints, voluntary withdrawal of the complaint or by the parties’ entering into a written settlement agreement that is signed at the conclusion of the mediation conference. If no agreement is reached through mediation, the EEO Counselor issues a final interview letter to the complainant, who then has 15 calendar days from the date of the final interview to go forward with a formal complaint.

FORMAL COMPLAINTS - ADR may be initiated at any time during the processing of the formal complaint prior to the request for a final decision by the complainant. If the matter is deemed appropriate for mediation, OWD will assign a mediator upon complainant’s request for ADR.

If the matter is resolved, through mediation, then the complaint is closed and the mediator prepares a written settlement agreement which is signed by all parties. If the complaint is not resolved, then processing of the complaint resumes where it originally stopped for mediation. During the formal phase, OWD may authorize a period of 60 calendar days to complete the mediation.

WHO IS INVOLVED IN THE PROCESS?

Complainant: Anyone who is a current FCC employee or applicant for FCC employment and who initiates a timely complaint of discrimination.

Agency Representative: Someone authorized to represent and take settlement action on behalf of the Agency in the effort to settle the complaint.

This is usually, but not always, the management official most directly involved in the complaint.

Mediator: A neutral and impartial third party trained in mediation and conflict resolution techniques, who is also familiar with the EEO complaint process. The mediator is selected by OWD.

In most mediation sessions, only the mediator, the complainant and the Agency representative (and, if desired or agreed, their respective representatives) are present in the room where mediation takes place.

IN SUMMARY

The use of mediation will better equip the Federal Communications Commission to address and resolve complaints of discrimination. Since miscommunication is at the heart of many complaints, the intervention of a trained, neutral third party can facilitate constructive discussions between the parties and may ultimately lead to a mutually agreeable resolution.

OPEN COMMUNICATION LEADS TO EARLY RESOLUTION