



# 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. The EEO counselor will inquire and find out if the Agency is willing to participate in mediation. If so, the pre-complaint process will 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. If the Agency agrees to mediate, the processing of the EEO complaint will be held in abeyance for no more than 90 calendar days from the date of the request to mediate. If the complaint is not resolved in mediation, the EEO complaint process resumes at the point mediation was requested.

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

The mediation process is initiated by contacting the ORM official assigned to the EEO complaint or ORM's ADR Program Office. If the request does not involve an issue of fraud, waste, abuse, criminal activity, sexual harassment, or removal for cause, the other party involved in the dispute will be contacted to see if (s)he is amenable to mediation. If the other party is willing to mediate, the ORM ADR Program Office or Facility ADR Coordinator 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 may be notified of and invited to participate in the mediation session.

### **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, those terms are documented in an agreement.

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

A written agreement is drafted and 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?**

If mediation was elected during the EEO complaint process, the process resumes at the point mediation was requested.

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

If you would like additional information, please contact the ORM ADR Program Office at 202-501-2800.