
Facts About Mediation

Mediation is a form of Alternative Dispute Resolution (ADR) that is offered by the New Orleans District (NOD) EEO Office as an alternative to the traditional investigative or litigation process. Mediation is an informal process in which a neutral third party assists the opposing parties to reach a voluntary, negotiated resolution of a charge of discrimination. The decision to mediate is completely voluntary for the complainant. [Once the complainant has agreed to mediation, the responding management official is required to participate.] Mediation gives the parties the opportunity to discuss the issues raised in the charge, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and, ultimately, to incorporate those areas of agreements into resolutions. A mediator does not resolve the problem or impose a decision on the parties. Instead, the mediator helps the parties to agree on a mutually acceptable resolution. The mediation process is strictly confidential. Information disclosed during mediation will not be revealed to anyone, including other NOD employees.

How Mediation Works

If appropriate, an EEO representative will discuss with the employee the possibility of participation in the mediation program. If s/he agrees, a mediation session conducted by a trained and experienced mediator is scheduled. While it is not necessary to have an attorney in order to participate in NOD's Mediation Program, either party may choose to do so. It is important that persons attending the mediation session have the authority to resolve the dispute. If mediation is unsuccessful, the Notice of Right to File a Formal Complaint of Discrimination is issued and, if this formal complaint is filed, the charge is investigated like any other.

Advantages of Mediation

- ☞☞ Mediation is an efficient process that saves time and money. Successful mediation avoids a time consuming investigation and achieves a prompt resolution of the charge. The majority of mediations are completed in one session, which usually lasts for one to five hours.
 - ☞☞ Mediation is fair. Mediators are neutral third parties who have no interest in the outcome. Their role is to help the parties resolve the charge.
 - ☞☞ Mediation is a confidential process. The sessions are not tape-recorded or transcribed. Notes taken during the mediation are discarded. Only a Negotiated Settlement Agreement may be set to writing and saved.
 - ☞☞ Settlement agreements secured during mediation do not constitute an admission by the employer of any violation of laws enforced by the NOD.
 - ☞☞ Mediation avoids lengthy and unnecessary litigation.
 - ☞☞ For additional information about the mediation as part of an informal complaint of discrimination, come to the EEO Office, Room 245 or call us at x2823.
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Questions And Answers About Mediation

Q. What is mediation?

A. Mediation is a form of Alternative Dispute Resolution (ADR) that is offered by the Equal Employment Opportunity (EEO) Office as an alternative to the traditional investigative and litigation processes. Mediation is an informal process in which a trained mediator assists the parties to reach a negotiated resolution of a charge of discrimination. The mediator does not decide who is right or wrong and has no authority to impose a settlement on the parties. Instead, the mediator helps the parties to jointly explore and reconcile their differences.

Q. Does NOD require the parties to participate in mediation?

A. No. Participation in NOD's mediation program is strictly voluntary for the complainant. If s/he declines to participate in mediation, the complaint will be processed just like any other.

Q. Who mediates NOD charges?

A. Only mediators who are experienced and trained in mediation are assigned to mediate NOD charges. NOD participates in the Federal Executive Board (FEB) Mediation Pool. The FEB pool has a staff of trained volunteer mediators. All mediators used at NOD are neutral unbiased professionals with no stake in the outcome of the mediation process.

Q. At what point in the administrative process will mediation take place?

A. Mediation will usually take place during the informal (precomplaint) stage of the complaint process. Offering mediation prior to an investigation saves district resources by avoiding the investigation of a charge that might be appropriately resolved through mediation. In addition, mediation prior to an investigation prevents the hardening of positions that can occur during a lengthy investigation.

Q. Where will mediation sessions take place?

A. External mediators will arrange a mutually convenient time and place for the mediation after consultation with both parties.

Q. Is the mediation process confidential?

A. Yes. NOD maintains strict confidentiality in its mediation program. The mediator and the parties must sign agreements that they will keep everything that is revealed during the mediation confidential. The mediation sessions are not tape-recorded or transcribed. Notes taken during the mediation are destroyed. Any records or other documents offered by either party during the mediation are also destroyed. Only a Negotiated Settlement Agreement may be set to writing and saved. Furthermore, in order to ensure confidentiality, the mediation program is insulated from the NOD's investigative and litigation functions.

Q. Who should attend a mediation session?

A. The charging party and a representative of the Commander should attend the mediation session. The person representing the district should be familiar with the facts of the charge and have the authority to settle the charge on behalf of the Commander.

Q. Can the parties bring an attorney or other representative to the mediation session?

Yes. While it is not necessary to have an attorney or other representative in order to participate in NOD's mediation program, either party may choose to do so. The mediator will decide what role the attorney or representative will play during the mediation. The mediator may ask that they provide advice and counsel, but not speak for a party. If a party plans to bring an attorney or other representative to the mediation session, he or she can discuss this with the mediator prior to the mediation session.

Q. How long does the mediation process take?

A. Mediation is a very efficient process that saves time and money. The majority of mediations are completed in one session, which usually lasts from one to five hours. Successful mediations avoid a time consuming investigation and achieve a prompt resolution of the charge.

Q. Are all charges eligible for mediation?

No. The EEO Office evaluates each charge to determine whether it is appropriate for mediation considering such factors as the nature of the case, the relationship of the parties, the size and complexity of the case, and the relief sought by the charging party.

Q. *What happens to a charge if it is not resolved in mediation?*

A. If a charge is not resolved during the mediation process, the Notice of Right to File a Formal Complaint of Discrimination is issued and, if this formal complaint is filed, the charge is investigated like any other.

Q. *Can information revealed during a mediation session be used during an investigation if the charge is not resolved during mediation session?*

A. No. Since the entire mediation process is strictly confidential, information revealed during the mediation session cannot be disclosed to anyone including other NOD personnel. Therefore, it cannot be used during any subsequent investigation.

Q. *Are the parties required to pay for the mediation?*

A. No. There is no fee for the mediation.

Q. *What happens if a party does not comply with an agreement reached in mediation?*

A. An agreement reached during mediation is enforceable by this agency. If either party believes that the other party has failed to comply with a mediated settlement agreement, he or she should contact the EEO Office. If the complainant believes the agency has not complied with the terms of the informal resolution, s/he may, under 29 C.F.R §1614.504, notify the Director of Equal Employment Opportunity in writing within 30 days of the date of the alleged violations, requesting that the terms of the informal agreement be specifically implemented. Alternatively, you may request that the claim be reinstated for further processing from the point processing ceased.

Q. *Does mediation work?*

A. Yes. Participants in the NOD's mediation program indicate a high degree of satisfaction with the program. It is a fair and efficient process that can avoid a lengthy investigation and the possibility of unnecessary litigation.

Q. *How can I learn more about NOD's mediation program?*

A. For additional information about the use of the mediation program in connection with an informal complaint of discrimination, you may come to the EEO Office, Room 245 or call us at x2823.