



DEFENSE DISTRIBUTION CENTER EQUAL EMPLOYMENT OPPORTUNITY OFFICE THE EEO MEDIATION PROCESS

WHAT IS MEDIATION?

Mediation is a process which allows parties to resolve conflicts with the assistance of a neutral. This neutral, called a mediator, is neither a judge nor a jury. Instead, the mediator helps parties find their own solutions to a dispute.

EEO MEDIATION PROGRAM

The EEO Counselor will first offer an employee the opportunity to mediate his/her complaint during the EEO precomplaint process. Mediation may also be offered during the formal complaint process as well. Mediation allows a complainant to work with management and a neutral mediator to design and tailor their own resolution to a dispute. There is far greater flexibility developing possible settlements, as the parties can develop customized, creative and equitable solutions tailored to their specific needs. It does not require that an employee prove that they have been the victim of illegal discrimination. Mediation focuses on party interests, not blame. If mediation is unsuccessful, an employee may still file a formal EEO complaint of discrimination.

Informal resolution is emphasized to reduce the financial and morale drain caused by complaints that progress through the EEO system. RESOLUTION of all complaints at the informal stage by the use of mediation IS HIGHLY ENCOURAGED.

WHY CHOSE MEDIATION?

The EEO formal complaint process is slow, especially if it involves a hearing before an Equal Employment Opportunity Commission (EEOC) Administrative Judge. It often does not succeed in settling the real issues underlying a dispute. Mediation offers a prompt, equitable resolution to the fundamental issues in a dispute.

- It is fast – sessions can usually be scheduled within a few weeks.
- It is informal – no complicated procedures.
- It is private – all notes taken by the mediator are destroyed at the end of the mediation, and
- If it doesn't work out – the employee can continue pursuing the complaint through the formal EEO channels.

HOW DOES MEDIATION WORK?

The mediation process begins with the mediator and the parties sitting together in one room. The mediator explains how the process works and answers questions. Each side then tells their side of the dispute. Afterwards, the mediator may meet privately with each party to continue discussing the problem in confidence and work toward finding a resolution. If a settlement is reached, a written agreement will be drawn up and signed by all parties. Once this agreement is approved, it is binding on all parties.

MUST I PARTICIPATE IN MEDIATION?

Participation in mediation is absolutely voluntary on the part of an employee. If the employee wishes to mediate the dispute, the EEO Counselor will coordinate the mediation, working closely with the DDC Equal Employment Manager (EEM). After a decision by the EEM that the issues are appropriate for mediation, the mediation will be confirmed to the employee in writing. Almost every EEO issue is appropriate for mediation. A decision not to offer mediation will only occur after a full evaluation of the dispute by the EEM. It is DLA and DDC policy that management officials must participate in the mediation of EEO disputes if the issues are accepted for mediation. Management must send to the mediation an official who possesses the necessary authority and knowledge of the events to be an effective representative.

REPRESENTATION

All parties have the right to representation during mediation. This can be an attorney, designated representative of the employee's choosing, or union representative. Typically, the management official will be represented by an attorney when the employee has an attorney representative.

PREPARING FOR MEDIATION

Eliminate any mindset you might have that mediation is an adversarial proceeding. The goal of mediation is to identify the issues, explore settlement solutions, and preserve or mend the working relationship. Analyze the case – remember to focus on the issues and interests important to you, not the personalities of the parties involved. Make a list of best possible and realistic settlement options. Think about your expectation of future contacts with the other party after the negotiations. If you will be working together day to day, the nature of your negotiations may be different than if you anticipate no significant future contact. Try to set strong emotions aside for the mediation. This means thinking about how feelings of anger or frustration can be expressed constructively. Resolve to make an effort to mediate in good faith.

TIPS FOR A SUCCESSFUL MEDIATION

Listen very hard to what the other party has to say. Shed any assumptions about what you think the issues are and what you think the other party wants. Try to separate personal egos from the issues in dispute. Turn off the part of your brain that wants to engage in a silent rebuttal every time the other party speaks, and instead, listen to what they are saying. It may be emotional. It may not be pleasant. It may take several hours. Be logical, reasonable, persistent, and patient. Let the mediator