



Federal Communications Commission
Office of Workplace Diversity

**Management Reminders
Alternative Dispute Resolution Program**

Thank you for agreeing to participate in the FCC's ADR Program. The following information will assist you in preparing for the mediation process.

1. Mediation Process. Mediation is a type of Alternative Dispute Resolution (ADR) technique used to resolve workplace disputes. A neutral third party or mediator assists the parties in discussing their concerns in a productive manner. Mediation is available any time during the EEO administrative process at no cost to you. Its benefits include providing each party a greater degree of control to resolve a dispute as compared to traditional litigation and adjudication, in addition to the potential cost-savings and more timely outcomes it offers.
2. Voluntary. Mediation is voluntary for the employee and required for supervisors and managers.
3. No Admission of Guilt. Participation in mediation does not imply in any manner whatsoever an admission of guilt or any kind of wrongdoing by FCC management and none should be inferred by participation in this process.
4. Confidentiality. The mediation is confidential and therefore the parties may not discuss the substance of the mediation with anyone unless agreed to by both parties or by court order or applicable law. Each participant will sign a "Mediation Confidentiality Agreement" prior to the mediation.
5. Mediator. The mediator is a qualified, experienced individual from another federal agency who participates in the Shared Neutrals Program. The mediator is an impartial and independent person who has no stake in the outcome of the mediation. He/she will not provide any legal advice nor act on either party's behalf.
6. No Binding Authority. The mediator does not have the authority to bind the FCC or the employee to anything. The choice to continue in the mediation process or whether or not to reach a settlement agreement resides solely with the parties.
7. Program's Timeliness Expectations. The mediation process is expected to end within 21 days after a mediator has been assigned. The mediation session is expected to be no longer than one day except for unusual circumstances with the mutual agreement of both parties. To meet these timeliness goals, to ensure the effectiveness of the mediation process, and to demonstrate your respect for all involved, it is best that you have a clear schedule for the entire day and ensure minimum interruptions during the mediation.

8. Scheduling a Mediation. Mediations are usually scheduled to begin in the morning. If other employees in your organization have access to your electronic calendar, you may want to schedule the mediation as a “Meeting” rather than as a “Mediation.”
9. Mediation Participants. If the other party is represented by NTEU, a member of Labor Relations may be present at the mediation. If the other party is represented by legal counsel, a member of the Office of General Counsel for General Law is strongly encouraged to attend the mediation. In both instances, you are highly encouraged to meet with OGC prior to the mediation to establish a mediation strategy and develop the parameters of the Settlement Official’s settlement authority. During that meeting, it is also recommended to include a representative from Human Resources Management.
10. FCC Settlement Official. For EEO disputes, the FCC must make an individual with settlement authority available. However, no responsible agency official or management official directly involved in the case will serve as the person with settlement authority. Therefore, if you were directly involved in the circumstances giving rise to this dispute, you may not serve as the person with settlement authority. Prior to the mediation, you should consult with OGC and the Special Counsel for ADR regarding who would best serve as the settlement official.
11. Mediation Session. The mediation normally begins with the mediator introducing him/herself and making brief opening remarks about the process. The mediator will likely provide an opportunity to both parties to make a brief opening statement. It is typically a good idea to make an opening statement and therefore you should consider drafting one in advance of the mediation session.
12. Mediation Terms Worksheet. If you reach a common understanding on how to resolve the dispute, the terms of your understanding should be documented in the Mediation Terms Worksheet that the mediator will provide you. It is your and the employee’s responsibility to author the terms of the Mediation Terms Worksheet. Although the mediator may assist the parties to overcome a drafting impasse, the mediator will not draft any of the terms although he/she may act as the scribe.
13. Settlement Agreement. You should not sign a final settlement agreement at the end of the mediation. If you draft a Mediation Terms Worksheet, the mediator will provide that document to the Special Counsel for ADR to be incorporated into a final settlement agreement that the parties will review before signing at a later date. The Offices of Workplace Diversity, General Counsel and Human Resources Management review settlement agreements for legal sufficiency before a final settlement agreement is signed by the parties.