

Alternative Dispute Resolution
for Equal Employment
Opportunity Complaints at the
Defense Security Service



Office of Diversity Management



**Welcome to the
Defense Security Service's training on
Alternative Dispute Resolution in the
Equal Employment Opportunity
Complaints Process.**

The following training slides have been developed as a self-guided tutorial on the DSS program for Alternative Dispute Resolution, or ADR as it is more commonly known. ADR is available through the DSS Office of Diversity Management's Equal Employment Opportunity (EEO) complaints program. More information can be obtained through the DSS Alternative Dispute Resolution for EEO Complaints regulation, 08-13.



Questions Covered

- Why is DSS using an ADR Program?
- Who can use the DSS ADR Program?
- What is ADR and what is Mediation?
- How does the Mediation process work?
- Why use Mediation?
- How can I be better prepared to participate?



DSS Policy on ADR in the EEO Complaints Process

The Defense Security Service policy is to resolve employee/management problems quickly and at the lowest organizational level possible.

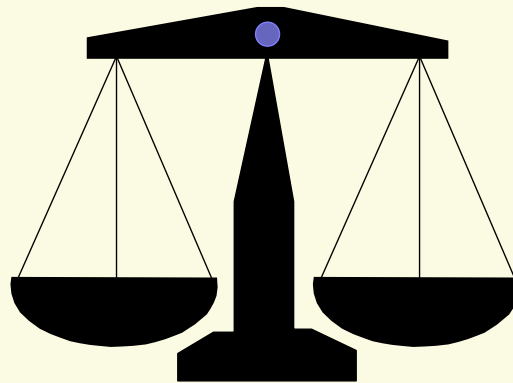


All DSS employees, including management officials, are encouraged to use ADR when feasible, to resolve issues brought to the EEO complaints process.



Legal Authority for Using ADR

All Federal agencies are required by 29 Code of Federal Regulations Part 1614.102(b) to provide EEO Complainants with access to an ADR program in both the informal and formal stages of the EEO complaint process. Anyone eligible to use the EEO complaint process, can use the ADR Program for EEO Complaints.



The ADR procedure used in DSS is Mediation, but what is 'mediation'?

Mediation is a process in which parties come together to resolve a conflict with the assistance of a certified mediator. The mediator is usually a non-DSS, neutral, third party, who has limited knowledge of the issues, and who is required to keep the discussion confidential, to the extent possible.



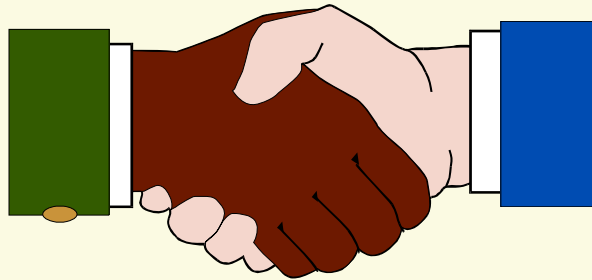
Mediators do not advise either party and do not make decisions. Rather, a mediator facilitates the discussion with the goal of assisting the parties to reach a mutually satisfactory resolution.



What Happens During Mediation?

The mediation session begins with the parties telling their side of the dispute. After some discussion, the mediator may choose to caucus (or meet) with each party separately.

The parties enter into discussions with the goal of achieving an agreement.



Five Components to Mediation

☆ An impartial third party facilitator. A neutral person who the parties can trust, and while supportive of the parties, is not an involved party.

🕒 The mediator protects the integrity of the proceedings. The mediator facilitates the process and any notes taken during mediation are destroyed. Anything said during the session is considered confidential.

🕒 Good faith from the participants. The parties must enter the process with the intent to work toward resolution.

🕒 The presence of the parties. All parties necessary to resolve the problems should interact with the mediator and be present to hear the full discussions.

🕒 An appropriate site or venue. A neutral site should be used where confidentiality and inclusiveness is assured.



What Happens When Mediation is Requested?

- ✦ A determination will be made whether the dispute is appropriate for mediation. If the issue is not appropriate for mediation, the Office of Diversity Management will advise the employee of other avenues available for consideration.
- ✦ If mediation is offered and accepted, the appropriate management officials are offered the opportunity to participate in mediation. Mediation is voluntary for all parties.
- ✦ Participants are asked to sign a form stating they agree to participate in the mediation process. Normally, mediation can occur within two weeks of signing this form.



What are the Benefits to Using Mediation in the DSS ADR Program?

Since the parties, with the assistance of the mediator, create their own resolution agreement, there is greater potential for:

- ✦ Lasting results,
- ✦ Improved communication, and
- ✦ Savings in time and money.

Mediation allows the parties to explore a wide range of concerns and creative solutions which can:

- ✦ Improve ongoing relationships,
- ✦ Raise the level of trust between the parties, and
- ✦ Enhance communication among the parties.



Mediation Can Help You Avoid the *Costs of Conflicts*

Definitive costs ~ Processing, investigating, and the formal hearing of complaints can produce significant costs. Add to that the official time spent by employees, managers, and witnesses.

Productivity costs ~ Employees and managers engaged in conflict are less focused on their job. Distraction can lead to errors.

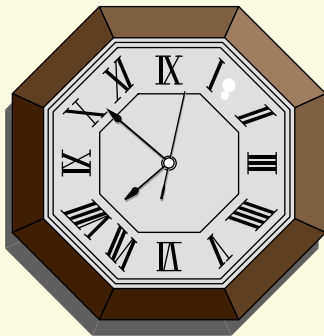
Relationship costs ~ When issues go unresolved, relationships suffer. When morale is low, services and products also suffer.

Reactionary costs ~ The feeling of being treated unfairly will prevail in one's mind. This perceived injustice can diminish job performance and an employee's morale. Remember, a person's perception is his or her reality.



What Effect does ADR have on the EEO Complaint Process?

If the aggrieved individual has already filed an informal EEO complaint, the counseling period will be extended to allow sufficient time for the mediation process. Mediation can also occur during the formal stage of an EEO complaint.



The EEO complaint processing time is suspended while the ADR procedure is attempted. If ADR is unsuccessful, the EEO Complaint process resumes at the point at which ADR was elected. No rights to the EEO process are waived if ADR is elected.



Checklist for Participants

Know the issue ~ Be prepared to discuss your side of the story concisely and factually.

Consider the relief desired ~ Is it reasonable and fair? Am I willing to compromise, and on what points?

Evaluate the case if resolution is unsuccessful ~ What will happen if this case goes into, or continues in, the formal EEO process?

Understand how the mediation process works ~ Do you know your role and what to expect? Ask as many questions as necessary to feel comfortable with the process beforehand.

Be open and flexible ~ Practice active listening throughout the mediation session.



DSS ADR Statistics for FY 01

Types of ADR	Number Attempted	Number Resolved
Mediation	3	2
Settlement Conferences*	8	6
Total	11	8

*A settlement conference occurs during the hearing phase of a formal complaint.



Director's Support for the DSS ADR Program for EEO Complaints

“As the Director of the Defense Security Service, I am committed to a workplace reflecting an environment of receptive communication. The DSS EEO ADR program is designed to improve communications and workplace relationships, and I am a proponent of this early resolution program for EEO complaints at all stages of the process.

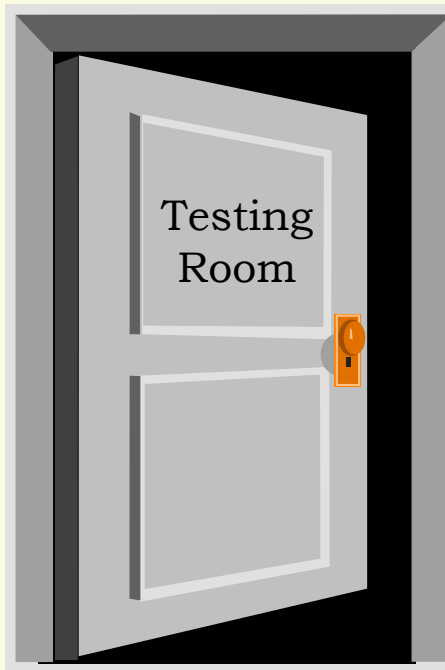
Resolving complaints expeditiously contributes to our goal of maintaining an environment that fosters communication and involvement.”

CHARLES J. CUNNINGHAM JR.
DIRECTOR



Are You Ready for a Quiz?

Please answer the following questions by clicking on the answer button. You may also go back and review the slides if necessary.



True or False?

Before a mediation session, a mediator should be thoroughly briefed on the subject of the complaint and given a history of prior issues in order to fully understand the nature of the problem.

True

False



False!

In ideal circumstances, the mediator is a neutral party who does not know the other parties, nor any prior history of issues between them.

A mediator is usually given very limited information including the name and job title of the parties, and a very brief description of the issue presented within the current EEO complaint.



During a Mediation Session, Which of the Following Statements is False?

- A. At the end of the session, any notes taken by the mediator are destroyed.
- B. The mediator can give a party advice if it helps lead to resolution.
- C. Anyone eligible to use the EEO process can also use the DSS ADR program.
- D. The DSS ADR Program is voluntary for all parties, including management officials.



The Answer is B!

Mediators never give advice.

Mediators do however, make 'reality checks' during one-on-one sessions, that may help the parties come to their own decisions or resolution ideas.



True or False?

If the complainant elects to use mediation, no rights are waived to later utilize the EEO process if mediation is unsuccessful at resolving the issues.

True

False



True!

If mediation is unsuccessful, the EEO process picks up at the point mediation was elected.

In fact, if ADR was not successful during the informal or counseling stage of a complaint, for example, it can later be used again during the formal stage, including during the hearing phase at the Equal Employment Opportunity Commission.



A Good Reason to Participate in the DSS ADR Program for EEO Complaints is:

- A. It saves time, money and effort.
- B. Often, mediation improves working relationships, and instills improved communication among the participants.
- C. Parties formulate their own resolution rather than having a judge or arbitrator impose a decision upon them.
- D. All of the above.



The Answer is D!

There are many good reasons to utilize the mediation process including the time and cost savings, improved communication, and ownership of the resolution process.

However, even if resolution is not totally successful, there are still benefits to using mediation. Often the communication or morale between the parties improves or the issues are narrowed down in order to better deal with them within the formal EEO process.



Questions or concerns?

*Please contact our office or visit our web site
for further information or forms.*

OFFICE OF DIVERSITY MANAGEMENT

881 Elkridge Landing Road, APS 10

Linthicum, MD 21090

Phone: 410-865-2477

Fax: 410-865-3438

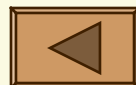
TTY: 410-865-2616

<http://infolink.dss.mil/low/homepages/eo/index.htm>



*Thanks for taking the
DSS ADR training for EEO Complaints!*

This concludes the training on the DSS ADR Program for EEO Complaints. We hope that this training has strengthened your understanding of the mediation process and has encouraged your future use of the program.



Return to first slide

Close the training