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FOR ANY QUESTIONS REGARDING MEDIATION,

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OR

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UNITED STATES MINT



OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

*Understanding Mediation
in the Equal Employment
Opportunity Process*

WHAT IS MEDIATION?

Mediation is a form of alternative dispute resolution (ADR). In mediation, the mediator, a highly trained third-party neutral, works with the parties to discuss the conflict and provide assistance with finding a resolution all parties can agree upon. Mediators are specifically trained in conflict resolution techniques. They are able to help parties work through strained or emotional communications, distrust and long-standing conflict. A mediator is expected to guide the negotiations and communications between the parties. In cases where the issues are clearly defined, the mediator may simply facilitate the discussion.

Professional mediators are trained not to take sides. The mediator has no decision-making authority and cannot impose a settlement. The parties maintain all control over the substantive outcome of the dispute. Mediation assistance involves working with the parties to improve their communications, clarifying or interpreting information, identifying key issues to be discussed, and uncovering hidden interests, generating possible settlement options, and helping to identify and formulate areas of mutual agreement.

WHY USE MEDIATION?

There are a number of advantages to using mediation over other means of resolving disputes, such as litigation or formal administrative procedures.

These advantages include:

1. Voluntary

No party is forced to participate in mediation or agree to a particular settlement. The mediator does not decide for the parties; they help them to make their own decision.

2. Non-Judicial

Decisions are made by the parties themselves. No judges are present in this process. The mediator is an unbiased neutral who may provide relationship-building and procedural assistance, may raise options for resolving the dispute, and may also help to develop new substantive proposals, BUT they never decide or favor either of the parties.

3. Informal

The parties, in cooperation with the mediator, have direct control over the proceedings, as they can actively contribute to the outcome. They can also address a wider range of issues than is possible under normal legal proceedings.

4. Confidential

The Administrative Dispute Resolution Act (5 USC 574) provides limited legal protection for the confidentiality of certain dispute resolution communications (oral or written) between the neutral and the parties outside the proceeding.

The Privacy Act of 1974 also has confidentiality protections. This level of confidentiality allows parties to openly explore all issues of the dispute without the fear that statements made may be disclosed at a later time, protecting future procedural and legal options.

5. Quick and Inexpensive

Mediated negotiations, because of their informal nature and flexible process, are often a more rapid means of reaching final agreement. Mediation conferences may be scheduled in a matter of days or weeks depending upon the needs of the parties and are usually completed within one or two sessions.

6. Preservation of the Relationship

Many disputes occur in the context of ongoing work relationships. Mediation generally results in an understanding that both parties can accept and support, promotes better communications between them, and encourages a respectful and cooperative relationship.

7. Greater Flexibility in Potential Settlements

Mediation also allows parties to develop customized creative solutions that are tailored to meet specific concerns or interests.

The US Mint only offers mediation for the resolution of Equal Employment Opportunity (EEO) cases. The Mint works with mediators at Federal Mediation and Conciliation Services, ensuring the neutrality of the mediator. Since these mediators are not affiliated with the US Mint, there is no conflict of interest with either party.

WHAT HAPPENS DURING MEDIATION?

The mediation session begins with the mediator introducing parties and providing an opening statement regarding their role as a neutral. The mediator will lay ground rules for the mediation and allow each party to explain in their own words the alleged discriminatory act and the requested relief or remedy sought.

Next, participants will enter into an open dialogue during which the mediator may ask clarifying questions and facilitate potential solutions. During the mediation, the mediator may ask to meet privately, or caucus, with each party to determine any areas of agreement. The parties will continue to discuss the issues until it is clear whether a settlement can be reached.

HOW DO I REQUEST A MEDIATION?

If you contact an EEO Counselor to initiate the EEO complaint process, the EEO Counselor will offer mediation or counseling. If you elect mediation, your EEO counselor will coordinate the date, time and location with all the participants.

If the parties reach a resolution, the mediator will verify the agreed upon terms and draft a Negotiated Settlement Agreement (NSA), summarizing the resolution. If applicable, participants with representation can discuss the terms of the settlement with their attorney or advisor prior to signing the agreement. A signed settlement agreement is binding for both parties.

If parties are unable to reach a resolution, the mediator will conclude the mediation, and the EEO Counselor will issue the **Notice of Right to File a Formal Complaint**. If they are unsatisfied with the outcome, the aggrieved party will have **15 calendar days** to file a formal complaint with Department of Treasury's Office of Civil Rights and Equal Employment Opportunity (OCRE).