



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
INSTALLATION MANAGEMENT AGENCY
2511 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202-3926

SFIM-ZE

MAY 13 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Alternative Dispute Resolution (ADR) Program Policy

1. The Equal Employment Opportunity Commission (EEOC) revised its regulations mandating agencies establish or make available an ADR program at the informal and formal phases of the Equal Employment Opportunity (EEO) administrative complaint process. The Department of the Army advises that facilitated mediation with a qualified ADR neutral is the preferred ADR method to be used within the Army.
2. The ADR process has proven successful in reducing formal complaints, employee grievances and employment litigation. It is characterized by full and open communication in a non-adversarial environment wherein benefits include rapid resolution, improved working relationships, cooperative problem solving and substantial cost savings.
3. The establishment of the Installation Management Agency (IMA) and the centralization of Base Support Operations (BASOPS) functions directly impact the ADR program throughout the Department of the Army. In order to avoid processing conflicts and a proliferation of ADR programs with different requirements, Army plans to develop a policy for one ADR program. In the interim, IMA has developed an ADR program standard for use by all IMA installations.
4. Responsibility and authority for the EEO ADR program rest primarily with the IMA Garrison EEO Officer. Since all cases are not appropriate for ADR, a team of representatives from EEO, CPAC, legal, managers and union officials, where applicable, will review the allegations and make a determination as to whether the claim is one that could be resolved through the ADR process. Once the commander/director or designee has decided to offer ADR and the aggrieved elects, in writing, to participate, it is considered that both parties have knowingly and voluntarily entered into the ADR process. The activity will ensure the participation of a management official with settlement authority.
5. The IMA fully supports the use of ADR and will continue to explore means to improve performance by resolving complaints in a timely and efficient manner. ADR has been successful due to an outstanding team effort among EEO, civilian personnel and legal

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staff. Each commander/director must ensure that EEO, in concert with and supported by appropriate civilian personnel and legal staffs, implement and sustain a viable ADR program.

6. Enclosed is a summary of procedures associated with implementation of ADR.

7. Point of contact for this action is Ms. Carole A. Page, ~~EEO Manager~~. She may be reached by telephone at commercial (703) 602-4772 (DSN) 332-4772, carole.page@hqda.army.mil.



Encl

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**Installation Management Agency (IMA)
Alternative Dispute Resolution (ADR) Procedures**

1. The EEO Commission 29 C.F.R.1614.102(b) (2) and its implementing guidelines set forth in Management Directive 110, mandate that agencies have an ADR program process and permit agencies to determine on a case-by-case basis whether to offer ADR to aggrieved persons and/or complainants. An ADR program must incorporate the principles of confidentiality, neutrality, voluntariness and enforceability. The Department of Army regulation, AR 690-600, EEO Discrimination Complaints, dated 9 February 2004 states that the preferred method of ADR throughout Army is **facilitated mediation** with a qualified ADR neutral).

2. It is in the best interests of all parties that salient facts relative to the claim(s) be gathered in order to attain resolution during mediation or traditional counseling. If resolution is unsuccessful and/or a formal complaint is filed, the EEO counselor inquiry will facilitate the preparation of the counselor's report.

a. Therefore, it is IMA policy that all aggrieved persons will be assigned an EEO counselor to begin traditional counseling **pending the decision** to offer mediation. Specifically, when an aggrieved person contacts an EEO official and states an **intent to initiate** a complaint alleging discrimination, an "intake interview" is conducted and information is recorded on **DA Form 7510, Feb 2004**. If the claim is within the purview of Title VII, an EEO counselor is assigned immediately to conduct a limited inquiry into the allegation(s). Simultaneously, the EEO officer, or designee, refers the claim (provide copy of intake form) to the ADR team for review and determination as to whether to offer ADR (mediation) to the aggrieved. The EEO officer notifies the aggrieved of the ADR team's decision and, if appropriate, gives the offer of ADR in writing. The aggrieved, likewise, responds to the offer in writing. If mediation is offered and accepted, the counselor ceases his/her inquiry, prepares a counselor's report based on the data and documents gathered to the point of termination of counseling and submits the report with all enclosures/notes to the EEO officer.

b. Mediators are neutral third party individuals who must be certified and skilled in conflict resolution and have no official, financial or personal interest in the issue at controversy or in the outcome of the dispute. In order to preserve the integrity of the ADR program, employees will not serve as mediators within their serviced activities. Many resources are available to installations/activities when mediators are required. The DOD CPMS Office of Complaint Investigations has a cadre of mediators who are available for a nominal fee. Many installations have formed partnerships with colleges, universities, state and other federal agencies to develop lists of shared neutrals from outside the installation workforce. Activities may, also, train in-house mediators in order to participate in shared partnerships with other agencies.

c. The mediator will facilitate the mediation process to assist the parties in developing solutions. If the mediation is successful, the mediator will provide the EEO Officer with the settlement terms, in writing, and a negotiated settlement agreement (NSA) will be prepared. The NSA will be coordinated with the agency representative and civilian personnel, if appropriate, and signed by the aggrieved and a management representative who has the authority to implement the agreement. A copy of the NSA will be placed in the official complaint file under the "Settlement" tab.

d. If the mediation process does not result in an NSA, the EEO Officer will issue the aggrieved a Notice of Right to File a Formal Complaint of Discrimination immediately and annotate the EEO counselor's report to reflect that mediation was unsuccessful. The counselor's report and the Notice of Right to File are placed in the official complaint file under the "Pre-complaint" tab. Under no circumstances will the mediation process exceed the time limit restriction imposed by regulations, i.e., 90 calendar days from the initial date of contact with an EEO official.

e. If the mediation is unsuccessful during the formal complaint stage, the EEO officer will prepare a memorandum for record (MFR) stating that mediation was attempted and was unsuccessful. The MFR will be filed in the official complaint file under the "Formal" tab.

3. Qualifications and training requirements for mediators are specifically set forth in AR 690-600, Chapter 2, sub paragraph 2-4. All mediators must be knowledgeable and familiar with EEO Commission 29 CFR Part 1614, the Civil Service Reform Act and the statutes the EEO Commission enforces, the Administrative Dispute Resolution Act of 1996 and Federal employment remedies, to include compensatory damages and attorney's fees/costs. At a minimum, to serve as a neutral in an EEO matter, mediators must have (1) received 40 hours of basic mediator skills training and (2) participated as a neutral three times in a mediation, to include serving as a co-mediator.