



DEPARTMENT OF THE ARMY
INSTALLATION MANAGEMENT COMMAND
HEADQUARTERS, UNITED STATES ARMY GARRISON, FORT LEAVENWORTH
290 GRANT AVENUE UNIT 1
FORT LEAVENWORTH, KANSAS 66027-1292

IMLV-ZA

22 July 2015

MEMORANDUM FOR ALL GARRISON ACTIVITIES

SUBJECT: Garrison Command Policy Letter #1, Alternate Dispute Resolution (ADR) Policy to Resolve EEO Discrimination Complaints

1. REFERENCES.

a. Alternative Dispute Resolution Act of 1990 (Public Law 101-522, 104 stat, 2736 et seq).

b. 29 CFR 1614 as revised 12 July 1999.

c. Equal Employment Opportunity Commission (EEOC) Management Directive 110, effective 9 November 1999.

2. PURPOSE. To establish an Alternative Dispute Resolution Policy at Fort Leavenworth and to use mediation to resolve discrimination complaints. See Enclosure.

3. GENERAL.

a. Our goal is to provide employees the opportunity and environment to reach their potential. We are all responsible for building a positive human relations climate. When conflict occurs, all Team members, Military and Civilians alike, need to take their employees' concerns seriously and address them appropriately.

b. The use of mediation is fully consistent with the Equal Employment Opportunity Commission (EEOC) mission as a law enforcement agency. It is the U. S. Army Garrison's policy to offer mediation as the process to resolve EEO discrimination complaints.

c. Mediation gives us an opportunity to create positive solutions and ensure we have a strong team working together. Also, mediation is an alternative and complement to traditional ways of resolving discrimination complaints. Benefits include fast turnaround and resolution, improved working relationship, cooperative problem solving, and substantial cost savings.

4. POLICY/PROCEDURES. Through this policy statement, the Garrison, in concert with every director and activity chief, affirms its commitment to use the mediation process to resolve EEO discrimination complaints where appropriate and feasible.

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SUBJECT: Garrison Command Policy Letter #1, Alternate Dispute Resolution (ADR)
Policy to Resolve EEO Discrimination Complaints

When all the potential benefits are considered, mediation is a wise choice. Our professional staff in the EEO Office and mediators have completed specialized training and can offer insight and avenues of redress as situations arise.

5. PROPONENCY. The proponent for this command policy is the EEO Office at 684-3697.

Encl

//Original Signed//
THOMAS A. SHOFFNER
COL, AR
Garrison Commander



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1. PURPOSE. These guidelines outline procedures and establishes responsibilities for the Combined Armed Center (CAC) and Fort Leavenworth's alternative dispute resolution process in Equal Employment Opportunity (EEO) complaints. It is CAC's recommended policy to offer mediation in the alternative dispute resolution (ADR) process to resolve EEO complaints.

2. AUTHORITY.

a. Alternative Dispute Resolution Act of 1990 (Public Law 101-552, 104 stat, 2736 et seq).

b. 29 CFR 1614 as revised 12 July 1999.

c. Equal Employment Opportunity Commission (EEOC) Management Directive 110, effective 9 November 1999.

3. OBJECTIVES.

a. Resolve EEO complaints at the earliest possible stage.

b. Establish a fair, nonadversarial process.

c. Offer an alternative to litigation.

d. Reduce costs and expenses for all parties.

e. Seek to foster and maintain good working relationships among and between all CAC and Fort Leavenworth employees and supervisors.

4. PROCEDURES.

a. An ADR team will be established at Fort Leavenworth.

b. The ADR team will consist of the EEO Officer, the Labor Counselor, and the Civilian Personnel Representative.

c. The ADR teams will review initial EEO complaints to determine if the mediation process is appropriate, to discuss settlement options, and to assist the mediator as requested.

d. If the ADR team concludes that a complaint is appropriate for mediation, mediation will be offered to the complainant by the EEO Officer.

e. Fort Leavenworth will make every effort to develop in-house mediators. Installation mediators should be trained and versed in conflict resolution techniques to assure the best possible opportunity for successful resolution of complaints.

f. Complainant participation in mediation is on a voluntary basis only.

g. Participation in ADR procedure is mandatory for management officials if mediation is agreed to by the complainant.

5. MEDIATION. If mediation is determined to be appropriate by the ADR Team and is accepted by the complainant, the following procedures will be used.

a. A trained mediator will be selected and appointed by the EEO Office to conduct mediation. (No person may serve as a mediator if that person was previously involved in the pre-complaint processing. In addition, EEO Counselors cannot serve as mediators.)

b. A date for the mediation to be conducted will be established by the mediator within five calendar days from the date the complainant elects to participate in the mediation process and a mediator has been chosen. The installation goal is to complete mediation within 30 days of the date a mediator is appointed.

c. Installation mediators will be trained by a qualified source (e.g., FMCS, DEOMI, or Justice Center). Upon appointment, the mediator will proceed expeditiously in conducting the mediation. The mediator will be provided all documentation, when available, that is related to the complaint. The mediator will then determine the participants who are needed for the mediation and any documentation required to conduct the mediation.

d. If local mediators are not available at an installation, the installation EEO Officer should contact the closest Installation Management Command (IMCOM) to request assistance in obtaining a certified mediator. In the alternative, IMCOM installations are encouraged to contact other nearby U.S. Army installations to ascertain the availability of certified mediators, to make use of the mediation services offered by the Department of Defense Office of Complaints Investigation, or to obtain the services of a private outside mediator.

e. In the event mediation does not result in resolution of a complaint during the informal complaint process or was not utilized during the informal complaint process, and a formal complaint is filed, the ADR team should again review the issues to determine if ADR at this stage is merited. If so, the installation EEO Officer will again offer mediation to the complainant.

f. Statements made during the mediation are confidential (the mediator cannot be called as a witness if the complaint continues). No records will be kept of the proceedings other than a settlement agreement if one is entered into.

g. Efforts at mediation during both the informal complaint process and formal complaint process will be briefed to the EEO Officer periodically during the mediation process to ensure that the timelines set out in 29 CFR 1614.105 & 106 are met.

h. Mediation participants will include:

- (1) The mediator;
- (2) The complainant;
- (3) A management official with settlement authority.

i. Mediation participants may also include:

(1) Any witness or witnesses against whom the allegations of discrimination are made;

(2) The installation labor counselor; and/or the complainant's representative; or

(3) Any other agency employee the mediator deems necessary for successful resolution of complaint.

5. RESPONSIBILITIES.

a. The Commander will:

(1) Support the ADR process.

(2) Provide resources in support of the ADR program.

b. The EEO Office will:

(1) Oversee the early resolution process and have overall responsibility and authority for the mediation process.

(2) Ensure timeframes are observed IAW 29 CFR 1614.

(3) Ensure early resolution process training is provided.

(4) Serve as Chairperson to ADR team.

(5) Offer mediation and arrange mediation to the aggrieved person.

(6) Select a mediator.

(7) Coordinate settlement agreement (if applicable).

(8) Conduct a review of the ADR process for evaluation.

c. The EEO Counselor will:

(1) Conduct the initial counseling session, identify the issues and allegations, conduct the precomplaint inquiry, and prepare counselor's report.

(2) Inform the aggrieved of rights and responsibilities and of the availability of ADR at the initial interview.

(3) If the ADR process does not result in resolution of the complaint, provide the complainant a final interview to include information of the right to file a formal complaint.

(4) Prepare a written report of the informal counseling conducted and a summary of the issues and any efforts at ADR.

d. The Civilian Personnel Representative will:

(1) Serve as member of ADR team.

(2) Provide civilian personnel information to the ADR team, management official with settlement authority, and the mediator.

(3) Review draft settlement proposals.

e. The Labor Counselor will:

- (1) Serve as member of the ADR team.
- (2) Provide legal guidance to the ADR team, the management official with settlement authority, and the mediator.
- (3) Review settlement proposals before they are executed or become final.

f. The Mediator will:

- (1) Identify participants for the mediation process.
- (2) Conduct mediation sessions.
- (3) Draft a settlement agreement and provide it to the EEO Officer and the Labor Counselor prior to execution or approval.
- (4) Coordinate signing of settlement agreement, if applicable.
- (5) Keep the EEO Office informed of circumstances involving status of mediation process (e.g., proposed resolution, no resolution, etc.).
- (6) Disqualify him/her from participating in mediation when he/she has professional or personal affiliations with one of the parties which would cause or give appearance of preferential treatment or partiality.

g. The Management Official having settlement authority will:

- (1) Participate in the mediation process.
- (2) In conjunction with the Labor Counselor, assist in executing a final settlement agreement.

h. The Aggrieved/Complainant Person will:

- (1) Participate as an equal party in the mediation.
- (2) Execute settlement agreement, if applicable.
- (3) Exercise the right to legal representation, if so desired. Legal counsel may, but is not required to, participate in the mediation.

6. The following is a model for implementing the ADR process during the administrative stage of an EEO complaint as detailed in 29 CFR 1614.105. Also suggested are recommended guidelines for processing time limits. Timelines are established beginning with the initial EEO Counselor interview, not from the date of initial contact with the EEO Office.

a. EEO Counselor conducts initial interview and receives precomplaint from the complainant. The counselor informs complainant of his/her right to pursue a formal complaint and of the availability of the installation's alternative dispute resolution program (Day 1).

b. EEO Counselor briefs EEO Officer on the issues and relief sought (Day 2).

c. ADR Team meets to determine if the complaint is appropriate for mediation (Day 3).

d. If the complaint is appropriate for mediation, the EEO Officer will offer mediation to the aggrieved (Day 4).

e. EEO Officer selects and appoints the mediator (Day 7).

f. EEO Officer provides the mediator with the EEO Counselor's intake report and other documents pertinent to the complaint that are available (Day 7 or 8).

g. The mediator selects participants for mediation and establishes a date for the mediation (Day 10).

h. Mediation during the informal complaint period is conducted (between Days 12 and 20 unless a longer period is mutually agreed to in writing by the mediator, the complainant, and the management official with settlement authority (or designee)).

i. In the event mediation is not accepted, the EEO Counselor will complete the EEO counseling process and issue a Notice of Right to File a Formal Complaint to the complainant within 30 calendar days of the date the complainant first contacted the EEO office to request counseling. Where mediation is accepted, but unsuccessful, the EEO Counselor shall complete the counseling process, conduct a final interview with the complainant, and issue a Notice of Right to File a Formal Complaint. These steps should be completed within 30 calendar days of the date the mediation process ended or no later than the 90th calendar day after the complainant initially contacted the EEO Office.

j. These suggested timelines do not apply to mediation which may occur during the formal administrative complaint process. In cases where a formal complaint has been filed and a complainant indicated a willingness to use the mediation process and the ADR team determines mediation is appropriate, the EEO Officer will make every effort to expedite selection of a mediator and completion of the mediation process.

k. Timely processing of EEO complaints will not be compromised by the ADR process. Exception to any discretionary ADR timeframe must be fully justified in writing and approved by the appropriate authority for oversight of the step in the ADR process.

7. ADR Evaluation and Analysis Procedures. Personnel in each installation EEO Office will be required to track and compile the following information:

a. Total number of EEO complaints.

b. Allegations and/or the basis for each complaint.

c. The number of cases in which mediation was offered and the number of cases that were attempted. Report should indicate whether ADR was attempted in the informal stage, the formal stage or both.

d. The number of cases in which mediation was successful.

e. The average number of days required to resolve complaints when they are successfully resolved through ADR.

f. The average cost for complaints resolved through ADR (excluding any amount paid as part of a settlement).