

STANDARDS OF CONDUCT FOR DLA MEDIATORS

1. Resolution is Voluntary

Mediators will recognize that mediation is based on the principle of self-determination. Mediators will proceed with the understanding that every resolution is voluntary. Participants may terminate participation at any time without repercussion. If the mediation is terminated, the case will proceed as if no mediation occurred.

2. Neutrality

Impartiality of the mediator is critical to the mediation process. The mediator will have no stake in the outcome of the dispute. Each mediator must be neutral toward all participating parties. When a mediator is assigned by the Agency, even the perception of the mediator's neutrality must be considered. In addition to being neutral, the mediator must conduct the mediation in an impartial manner. Mediators will serve as agents of reality without offering "friendly" or legal advice to the parties. The mediator is obligated to withdraw from the mediation if unable to continue in a neutral role.

3. Conflicts of Interest

A conflict of interest is a dealing or relationship that might create an impression of a possible bias. Conflicts of interest may apply to future matters involving the same parties or issues. It is the duty of the mediator to disclose in writing any real or apparent conflict of interest before beginning a mediation. If all parties agree in writing to utilize the services of the mediator after being informed of any real or apparent conflict, then the mediator may proceed to mediate. Nevertheless, if the conflict casts serious doubt on the integrity of the process, the mediator must decline to proceed.

4. Skill

Only trained and experienced mediators will participate in mediations. Possession of training and experience alone will not in and of itself be conclusive of a mediator's skill to mediate. Mediators will be generally versed in the subject matter at issue. Mediators are expected to continue their professional development, after initial training is completed. Individuals needing additional training or experience will be permitted to serve as co-mediators.

5. Confidentiality

Confidentiality is critical to the process. Except for those who are in the Resolution Agreement review/approval process, or unless required by law or regulation or policy, the mediator will not disclose any information gained during the mediation to individuals not a part of the mediation. Mediators will honor all confidentiality promises made during each individual caucus. Upon termination of the mediation, except for reporting requirements, all records developed by the mediator may be returned to the parties, destroyed, or retained by the mediator at the mediator's discretion. No mechanical or stenographic records will be kept of the mediation sessions.

6. Solicitation and Availability of Mediators

Once contacted, the mediator will convene the mediation as quickly as possible after all parties and the mediator are available. Prior to being assigned to a case, the mediator will not directly offer mediation services to the parties. Mediators may be assigned from both within and outside of the federal service.

7. Quality of the Process

Mediations shall be conducted in a way that allows each party an adequate opportunity to participate in discussions. No party should dominate the mediation process to the exclusion of other disputing parties. Undue emphasis should not be placed on artificial time constraints. Suspending the mediation for parties to consider or reconsider their positions can be an appropriate response to an impasse if, in the mediator's opinion, there is a reasonable likelihood that the mediation may productively continue at a later date. The participation of individuals not a party to the dispute is dependent upon agreement of the parties and the mediator.

8. Termination of Mediation

All mediations will terminate with one of three outcomes: complete resolution, no resolution, or partial resolution. No compromise in the process will be permitted to satisfy the desire for a complete resolution. The mediator will not prolong a mediation that has become unproductive. Mediators will act to facilitate the parties' voluntary outcome, not advocate an outcome. Success will not be measured with an adversarial win/lose result. Mediations can be terminated at the direction of the parties or mediator. Mediators should not permit their behavior to be guided by a desire for a high settlement rate.

9. Fees

All mediation fees for EEO complaints will be paid by the Agency. Mediation fees for other matters will be determined by the parties. Mediators will fully disclose all fees and the basis of compensation to the Agency before mediation begins. No fee agreement will be entered into which is contingent upon the result of the mediation or the amount, if any, of a settlement. No referral fees are appropriate to mediators referring mediations to another mediator. Federally employed personnel used for mediations will receive Invitational Travel Orders when appropriate. No fee may be requested or received by federally employed personnel conducting a mediation for the Federal Government. Mediators will not discuss fees or payment for service during the course of mediation.

10. Authority of Mediators

Mediators have no decision making authority. They do have authority to conduct an orderly and productive mediation. Mediators may not bind the parties or obligate the Government to make any expenditure. Approval of the terms in the Resolution Agreement will be made by authorized officials. Any issue of authority, interpretation, or application of rules will be presented on the Government side to the local EEO Office, the local Office of Counsel, the local Human Resources office, and/or other relevant offices.