

Memorandum of Understanding (MOU) on the ADR Process for Local 1340

The Federal Aviation Administration Technical Center, and National Federation of Federal Employees, Local 1340, hereby agree to implement a 6 month pilot program in which bargaining unit employees will have the option of using an ADR process to resolve discrimination complaints. At the end of the 6-month period, the parties will meet to determine the feasibility of extending the program.

A bargaining unit employee who believes he/she has been discriminated against must make an initial contact with an EEO Counselor to discuss the problem, within 45 calendar days following the incident, personnel action, or the date the employee first becomes aware of the incident that raises the discrimination allegation.

During the first meeting with the EEO Counselor, the EEO Counselor will provide the employee with a copy of this Memorandum of Understanding, and all required documents outlining their rights and responsibilities.

The Counselor, within the counseling process, will conduct a fact-finding inquires in an attempt to informally resolve the complaint. If the EEO Counselor is unable to resolve the complaint within 30 or less calendar days, the complainant may choose to enter the ADR process. The EEO Counselor will notify the Civil Rights Staff if the complainant chooses the ADR process. Once the complainant enters the ADR Process, the informal counseling phase will be extended to meet the allowable time frames. This time frame cannot be extended past 90 calendar days from the initial date with the EEO Counselor.

If the EEO Counselor is not able to resolve the matter at the informal stage and the complainant does not elect to use the ADR process, the EEO Counselor will issue a Notice of Final interview, and prepare the Counselor's Report. This report will be completed by the Counselor and submitted to the Civil Rights Staff, with a copy to the complainant.

ADR Process

Upon notification of the complainant's selection of the ADR process and the receipt of the EEO Counselor's Report, the Civil Rights Officer will initiate the establishment of a three member ADR Panel. One of the Panel members will be a Union-designated mediator, one will be designated by the Civil Rights Officer, and one will be jointly agreed to by the Union and the Civil Rights Officer.

Panel members must have experience of have been appropriately trained in mediation or dispute resolution. In addition, panel members should have a basic understanding of personnel/EEO regulations. The parties will meet as soon as possible after executing this agreement to determine the scope and manner of providing the necessary training for potential panel members.

Within two weeks after the ADR panel is formed, the ADR panel will arrange a meeting between the complainant and a management representative who is able to resolve the dispute. Normally, the manager/supervisor involved in the complaint will be the

management representative at the meeting. However, where appropriate, the ADR panel may request that the management representative be a manager who is higher in the organization than the manager/supervisor involved in the complaint, but no higher than the Service Director level. Either party may have a representative present during the ADR meeting.

The ADR panel will use an "interest-based" resolution process to attempt settlement of the dispute. (Rather than attempting to find or assess blame, the panel will give the parties the opportunity to discuss the dispute, explore areas of mutual concern and fashion an appropriate resolution.) In order to better facilitate a resolution of the dispute, the ADR panel will focus primarily on the issues involved in the dispute.

The meeting with the ADR panel should not normally last more than 1 hour, but panel members may extend the meeting or convene additional meeting if settlement appears likely. The ADR panel will have five working days following the meeting(s) with the complainant and management official to try to resolve the alleged complaint.

Panel members may make personal notes during meetings with the parties. However, all notes will be destroyed at the conclusion of the ADR process.

Any settlement reached by the parties must not conflict with governing laws, regulations, or negotiated agreements.

If settlement is reached, the parties involved will sign an informal settlement agreement that will set forth the agreed-upon terms. It is understood that the settlement will resolve all outstanding issues, and the employee will agree not to pursue his/her complaint any further. The terms of the agreement may be rescinded if either party fails to live up to their part of the agreement. If management fails to abide by the terms of the agreement, the complainant may re-enter the EEO Complaint process. Alternatively, the complainant may file a grievance at Step 3 of the negotiated grievance procedure.

If, after a reasonable period of discussion, not settlement is reached, the ADR panel will notify the Civil Rights Staff, who will inform the EEO Counselor to continue the procedures within the counseling process. Thereafter, the EEO Counselor will issue a Notice of Final Interview, and prepare the Counselor's Report. This report will be completed by the Counselor and submitted to the Civil Rights Staff, with a copy to the complainant. The complainant has 15 calendar days from the date of the Notice of Final Interview to continue with the formal processing of his/her complaint or to file a formal grievance at Step 3 of the negotiated grievance procedure, but not both.

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