

Equal Employment Opportunity (EEO)
Alternative Dispute Resolution (ADR) Program

EEO ADR GUIDE

for Managers and Supervisors



“We all know that differences of opinion happen, and there are many expectations about how conflicts will be addressed. However, I believe that with effective conflict-resolution mechanisms in place, we can continue to promote healthy working relationships and open communication among employees and between managers and employees.”

– Charles F. Bolden, Administrator

NASA EEO ADR

The NASA EEO ADR Program is designed to resolve EEO complaints at every Center (informal EEO process) and at the Agency level (formal EEO process) through facilitation by a neutral third party.

The NASA EEO ADR Program primarily uses mediation, one of the most common and effective methods of ADR, as a way to quickly and appropriately resolve EEO complaints. It provides individuals with the opportunity to develop mutually agreeable solutions. It also allows the individuals involved in the dispute to have a greater voice in the outcome than in the traditional EEO process, where the outcome is determined by a NASA official or Equal Employment Opportunity Commission (EEOC) Administrative Judge.

Although mediation is the most widely used method of EEO ADR at NASA, occasionally other forms of EEO ADR are utilized (e.g., facilitation, settlement conferences, and shuttle diplomacy).



MEDIATION

Mediation is a process through which a neutral third-party, who is not a decision maker, facilitates a discussion between the parties to help them reach a mutually acceptable resolution.

Mediation gives the parties the opportunity to discuss issues, clear up misunderstandings, find areas of agreement, and ultimately incorporate those areas of agreement into solutions.

A mediator does not impose a decision on the parties. Instead, he or she helps the parties to agree on a mutually acceptable resolution.



“There are many benefits that result from EEO ADR. It enhances efficiency and eliminates unnecessary case-processing expenses. But the greatest benefit is the eradication of distrust that contaminates the work environment. It allows teams to return to full, cohesive, and collaborative functioning and permits employees to realize their greatest potential.”

– *Brenda R. Manuel, Associate Director for Diversity and Equal Opportunity*

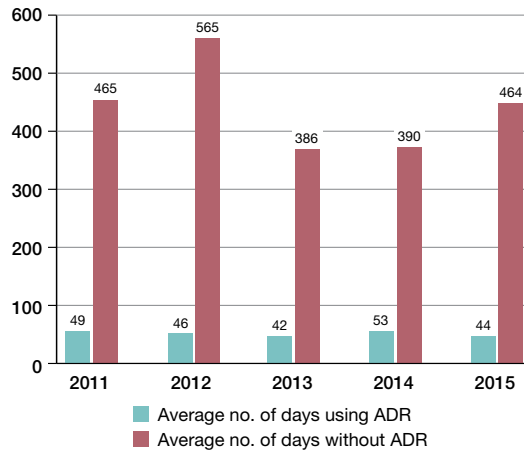
10 REASONS TO USE EEO ADR

- 1 Fair and Neutral.** The neutral party assigned to the case has no vested interest in the dispute and can be objective, encourage active listening, promote understanding, and generate a wide variety of options.
- 2 Confidential.** EEO ADR typically involves the disputing parties and their designated representatives, if any. An individual with authority to make decisions may also attend or be available to the parties, if needed. Witnesses are not called, and evidence is not produced. The neutral party is bound by strict confidentiality to keep anything shared during the mediation in confidence unless otherwise permitted or required by law to disclose.
- 3 Accessible.** NASA offers EEO ADR at both the informal and formal stages of the complaints process.
- 4 Parties Maintain Control of the Outcomes.** Parties design their own solutions. Through the exchange of information and ideas, parties make choices on what is in their best interest.
- 5 Structured Dialogue.** Ineffective communication can cause workplace disputes. EEO ADR offers the opportunity to improve communication through structured dialogue where conversations can be facilitated to ensure they are meaningful and productive.
- 6 Better Relationships.** EEO ADR is a professional way to deal with workplace disputes. Although disagreements will occur, how we choose to deal with them lays the foundation for our working relationships with others and how we serve our customers. Even if agreements cannot be reached, one can build a relationship of respect by trying to talk and work things out instead of avoiding or doing nothing and allowing the matter to escalate.
- 7 No Admission of Liability.** Settlement agreements reached during mediation are not admissions by NASA of any violation of law. Instead, it is a cost-effective means to resolve cases without further exposing the Agency to potential risk or liability.
- 8 Saves Time and Money.** Litigation and adjudication generally costs significantly more and can take years to reach a decision.



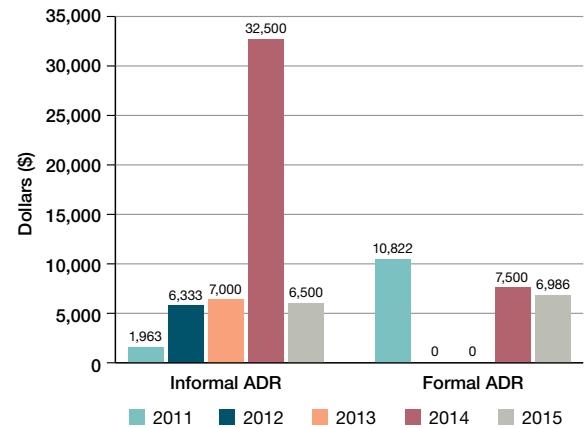


PROCESSING DAYS: ADR VS. NON-ADR



Processing time is considerably shorter with ADR than with the traditional complaint process and saves the Agency money and manpower.

SETTLEMENTS: ADR VS. NON-ADR



Most EEO cases that use ADR result in settlements that are non-monetary. However, when monetary settlements are reached, the cost is relatively negligible.

9 Settlement Agreements are Durable. There is more buy-in from the parties because they craft the outcomes themselves. Settlement agreements do not require admission of liability and are legally enforceable. Additionally, unlike decisions that are published, the terms of the settlement agreement are not routinely disclosed.

10 It Works! More than half of all EEO ADR sessions conducted at NASA end in a resolution. When EEO ADR is used, it typically results in a mutually acceptable settlement, the scope of the issues is narrowed, or a pending action is withdrawn. Even when a settlement is not reached, the parties benefit from the process, which leads to improved work environments.



“An effective EEO ADR Program can do more than just resolve disputes. It strengthens the Agency’s commitment to an environment where employees can communicate concerns and dissenting opinions without fear of reprisal. It encourages free and open communication across lines of supervision.”

– Sumara M. Thompson-King, General Counsel, NASA

THINGS TO REMEMBER

- ✔ **Focus on the issues and interests, not the personalities of the parties involved.** The time spent understanding the issues will pay plenty of dividends during the ADR process. It helps you make concessions and compromises and justify your interests as negotiations proceed. The complainant has agreed to the ADR process in an attempt to resolve the complaint. You have been identified because you have the power and authority to explore options to resolve the issues under dispute without costly litigation.
- ✔ **Explore all possible options for resolving the complaint.** Be creative. A resolution might not require money or the elimination of an adverse action. There may be other tangibles that can be offered, such as training, rotational assignments, or mentoring. However, make sure whatever is agreed upon can be implemented.
- ✔ **Eliminate any preconception you might have that EEO ADR is an adversarial proceeding.** Neither party has a burden of proof to establish the merits of their

claims in ADR, as you would in a legal proceeding. Be logical, reasonable, persistent, and patient. Let the neutral party work to establish open lines of communication and negotiation.

- ✔ **Listen very well to what the complainant has to say.** Shed any assumptions about what you think the issues are and what you think the complainant wants. Turn off the part of your brain that wants to engage in a silent rebuttal every time the complainant speaks; instead, listen to what he or she is saying. Keep in mind that the complainant feels strongly that he/she has been wronged by the Agency, possibly by you or by one of the supervisors or managers in your organization. The complainant has therefore sought some kind of relief by pursuing this avenue of conflict resolution. You may be surprised that all many complainants want is to have someone from management listen to them as they explain issues from their perspective.

PROCESSING INFORMATION

- ✓ **EEO ADR is designed around the time frames of the EEO regulations.** If the parties agree to participate in the mediation at the pre-complaint stage, the processing period may be extended up to 90 days. If no resolution is reached, the agency must advise the aggrieved person not later than the 90th day of their right to file a formal complaint.

If an individual enters into an EEO ADR after a formal complaint is filed, the time period for processing the formal complaint may be extended by agreement up to 90 days. If the dispute is not resolved, the agency resumes processing the individual's formal complaint.
- ✓ **If the parties agree to a resolution, the terms of the agreement must be in writing and signed by both parties.** The written agreement must state clearly the terms of the resolution and make procedures available to the parties in the event that either party fails to comply with the terms of the resolution.
- ✓ **Settlement agreements do not require admissions of liability or wrongdoing.**
- ✓ **Unlike decisions which are published, the terms of the settlement agreement must be kept confidential.**

You may be surprised at the strong liaison, trust, and credibility you establish with the complainant from the EEO ADR session.



“The courts of this country should not be the places where resolution of disputes begins. They should be the places where the disputes end after alternative methods of resolving disputes have been considered and tried.”

– Sandra Day O’Connor, Retired Associate Justice, Supreme Court of the United States



POINTS OF CONTACT

For additional information about the program, contact the Agency ADR Program Manager in the Office of Diversity and Equal Opportunity, Complaints Management Division at 202-358-2180.

You may also wish to review your Center's EEO ADR procedures, which are available through your Center's Equal Opportunity Office.

- ✓ **Ames Research Center (ARC)**
650-605-6507
- ✓ **Armstrong Flight Research Center (AFRC)**
661-276-3033
- ✓ **Glenn Research Center (GRC)**
216-433-2378
- ✓ **Goddard Space Flight Center (GSFC)**
301-286-7348
- ✓ **Headquarters (HQ)**
202-358-1098
- ✓ **Johnson Space Center (JSC)**
281-483-0603
- ✓ **Kennedy Space Center (KSC)**
321-867-9166/1066
- ✓ **Langley Research Center (LRC)**
757-864-3289
- ✓ **Marshall Space Flight Center (MSFC)**
256-544-6764
- ✓ **NASA Shared Services Center (NSSC)**
228-813-6055
- ✓ **Stennis Space Center (SSC)**
228-688-2079



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