

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

A WIN-WIN FOR EVERYONE



DID YOU KNOW?

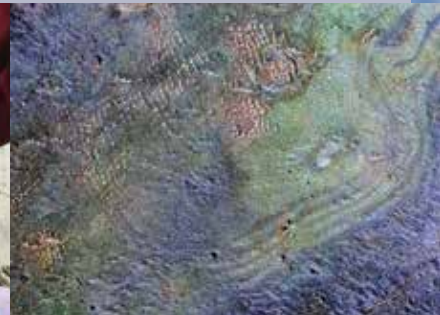
- ✓ NASA is committed to early and informal resolution of EEO complaints.
- ✓ NASA believes efficient and informal resolution of EEO complaints will enhance teamwork, collaboration, employee engagement, and productivity and also build trust between managers and employees.
- ✓ NASA has established an EEO ADR Program that is available at each Center for resolving informal EEO complaints and at the Agency level for resolution of formal EEO complaints.



THE BASICS

As required by the Equal Employment Opportunity Commission (EEOC), the Agency EEO ADR Program must conform to the core principles of fairness, flexibility, training, and evaluation. To meet the core principle of Fairness, the EEO ADR Program must be established upon the following four elements:

- ✓ **Voluntary.** Parties must knowingly and voluntarily enter into an EEO ADR proceeding.
- ✓ **Neutral.** An EEO ADR proceeding must be impartial and independent of any control by either party, in both perception and reality.
- ✓ **Confidential.** Parties who know that their EEO ADR statements and information are kept confidential will feel free to be frank and forthcoming during the proceeding, without fear that such information may later be used against them.
- ✓ **Enforceable.** Agreement knowingly and voluntarily agreed to by the parties is binding on both parties.





THE NASA EEO ADR

There are numerous EEO ADR techniques available for use by agencies in their programs. Each agency has the flexibility to use the ADR technique that is the best fit for their culture and allows for the meaningful participation of all involved. Mediation, facilitation, and settlement conferences are common ADR techniques which involve the participation of all parties to the dispute.

The NASA EEO ADR Program is designed to fit the Agency's environment and workforce and established based on the core principles of EEO ADR.

The NASA EEO ADR Program primarily utilizes mediation, one of the most common 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.



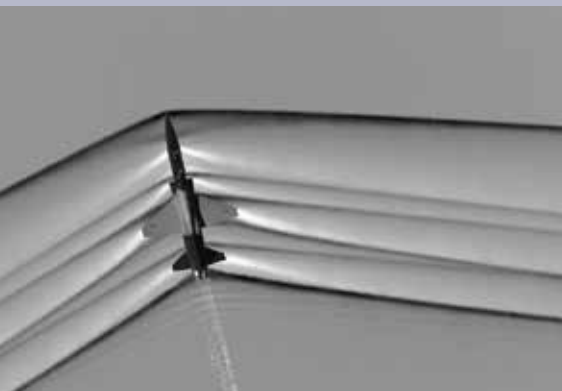






THE OBJECTIVES

- ✓ To proactively address workplace conflicts in the EEO area through a heightened emphasis on ADR.
- ✓ To help support a NASA working environment where managers, supervisors, employees, and applicants for employment have a constructive and expeditious way to resolve EEO disputes and can remain focused on the mission.
- ✓ To provide a fair, timely, and cost-effective method for resolving EEO disputes.
- ✓ To provide for a consistent approach Agency-wide in EEO ADR processes.



FREQUENTLY ASKED QUESTIONS

What is mediation?

Mediation is one of the EEO ADR techniques which refers to the process where a third-party neutral, who is not a decision maker, facilitates discussion between the parties to help them reach a mutually acceptable resolution.

What is a third-party neutral?

In a mediation, a third-party neutral is called a mediator. The mediator is impartial, does not act as a judge, and does not render a decision or impose a solution on any party. Rather, the mediator guides the process and determines when to meet with both parties in a joint session or individually, establishes a tone to help parties engage in meaningful discussion, and creates a safe environment for discussion to enable the parties to resolve the dispute themselves.

Who are the parties?

In the Federal EEO process, the “parties” are the agency and the aggrieved or complainant. As such, the manager who was accused of discrimination does not qualify as a party because that person is not a statutorily proper defendant in the Federal EEO process.

What are the benefits of EEO ADR?

- ✔ EEO ADR can improve office morale and productivity by repairing the parties’ relationship and avoiding the tension caused by the investigative process.
- ✔ Saves both parties time and money, as litigation and adjudication generally costs more and can take years to reach a decision.
- ✔ Early resolution of disputes through EEO ADR can make agency resources available for mission-related programs and activities.
- ✔ The parties maintain considerable control over the EEO ADR process and will decide their own outcome.
- ✔ Leads to a mutually acceptable agreement, which is legally enforceable.
- ✔ Settlement agreements do not require admission of liability.
- ✔ Settlement agreements are more durable because there is buy-in from the parties.
- ✔ Unlike decisions that are published, the terms of the settlement agreement are not routinely disclosed.

How does mediation work?

At the mediation session all parties present a summary of their points of view. Attorneys for the parties may be present. Typically, the mediator will then meet privately (caucus) with each party to explore more fully the facts and issues of each side. The caucus offers participants the opportunity to vent anger or frustrations outside the presence of the opposing side. The mediator usually will continue to caucus alternatively with each party, carrying settlement proposals back and forth until an agreement is reached. The agreement is then reduced to writing and signed by the parties.

How long does mediation take?

While the time required for mediation varies, the mediation session commonly involves less than a day.

Who pays for the mediation?

Cost of mediation is shouldered by the Center (at the informal stage) and by NASA ODEO (at the formal stage).



What happens to the EEO complaint if mediation is elected?

Mediation is designed around the time frames of the EEO regulations. For example, if the parties agree to participate in the mediation at the pre-complaint stage, processing period may be extended not to exceed 90 days. If the dispute is not resolved in this time frame, the agency must advise the aggrieved person not later than the 90th day after the EEO counselor contact of their right to file a formal complaint. However, resolution efforts may continue so long as the parties and the mediator agree.

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FREQUENTLY ASKED QUESTIONS

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Similarly, if an individual enters into an EEO ADR procedure after a formal complaint is filed, the time period for processing the complaint may be extended by agreement for not more than 90 days. If the dispute is not resolved, the complaint processing continues and must be done within the extended time period.

Can parties bring a representative?

The parties have the right to representation throughout the complaint process, including during any EEO ADR process. While the purpose of EEO ADR is to allow the parties to fashion their own resolution to a dispute, all parties can bring a representative to the EEO ADR forum if they desire to do so.

What happens when there is an agreement?

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 provide procedures available to the parties in the event that the parties fail to comply with the terms of the resolution.

Settlement agreements do not require admissions of liability.

Unlike decisions which are published, the terms of the settlement agreement must be kept confidential.

When is EEO ADR not appropriate?

While the Equal Employment Opportunity Commission (EEOC) expects the majority of matters to be appropriate for EEO ADR, the EEOC recognizes that there are instances in which EEO ADR may not be appropriate or feasible. Agencies may decline to offer EEO ADR for particular issues related to the agency's mission. Agencies have discretion to determine whether a given dispute is appropriate for EEO ADR.





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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