

conditions, any interaction between parties to an allegation of discrimination complaint may be perceived as retaliatory or motivated by ill will. Federal and State policies and statutes prohibit retaliatory actions against individuals in response to filing a discrimination complaint or participating in any manner in an investigation.

D. Settlement Agreement

When a resolution is reached, the mediator will assist the parties to develop a written settlement agreement. All parties to the dispute and the mediator (s) will sign the agreement. A copy of the agreement will be given to all parties involved in the complaint prior to adjournment. The settlement agreement shall:

- Describe the settlement of the issues and future responsibilities of the parties as agreed to by the parties;
- Be reached without coercion, duress or intimidation; and
- Not violate State Personnel rules, regulations and applicable collective bargaining, agency policies and procedures, federal and state laws as applicable.

If there is no resolution, the case shall be referred immediately for investigation.

A party to any agreement reached under the ADR/mediation process may file a complaint with the Civil Rights Center in the event the agreement is breached. In such circumstances, the following rules will apply:

1. The non-breaching party may file a complaint with the Director of the Civil Rights Center within 30 days of the date on which the non-breaching party learns of the alleged breach.
2. The Director of the Civil Rights Center must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines that the agreement has been breached, the complainant may file a complaint with the Civil Rights Center based upon his/her original allegation(s), and the Director may waive the time deadline for filing such a complaint

Complaints should be sent to the appropriate address listed in the notice "Equal Opportunity is the Law" posted at any WorkSource Oregon location. See back of this brochure for additional contact information. Additional information is available in the information brochure "Workforce Investment Act Methods of Administration Discrimination Complaint Procedures" also available at any WorkSource Oregon location.

Worksystems, Inc.

Address: 111 SW 5th Ave., Suite 1150, Portland OR 97204
Phone: (503) 478-7346, Oregon Relay 711
Serving City of Portland, Multnomah and Washington Counties
Home Page: <http://www.worksystems.org/>

Linn, Benton, Lincoln Workforce Investment Board

Address: 545 SW 2nd St., Suite A, Corvallis, OR 97333
Phone: (541) 752-1010, Oregon Relay 711
Serving Benton, Lincoln and Linn County
Home Page: <http://www.csc.gen.or.us>

Job Growers Inc.

Address: 626 High St., Suite 305, Salem, OR 97301
Phone: (503) 581-1002, Relay 1-800-735-2900

Workforce Investment Council of Clackamas County, Inc.

Address: 365 Warner Milne Road, Suite 202, Oregon City, OR 97045
Phone: (503) 657-6644, Oregon Relay 711
Serving Clackamas County
Home Page: <http://www.wicco.org>

The Job Council

Address: 673 Market Street Medford, OR 97504
Phone: (541) 842-2545, TTY/TDD 900-735-1232
Serving Jackson and Josephine County
Home Page: <http://www.jobcouncil.org/>

Lane Workforce Partnership

Address: 300 Country Club Road, Suite 120 Eugene, OR 97401
Phone: (541) 682-7228, Oregon Relay 711
Serving Lane County
Home Page: <http://www.laneworkforce.org/>

The Oregon Consortium & Oregon Workforce Alliance

Address: 260 SW Ferry Street, Suite 202 Albany, OR 97321
Phone: (541) 928-0241, Oregon Relay 711
Serving Baker, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and County
Home Page: <http://www.tocowa.org>

State of Oregon

Marie A. Jones
Equal Opportunity Officer, Oregon Employment Department
1-800-237-3710 (ext. 71692), TTY: 1-800-735-2900
<http://egov.oregon.gov/WORKSOURCE/>

Mediation

----- As An Alternative -----

Dispute Resolution

----- Process -----

Methods of Administration



Workforce Investment Act

Equal Opportunity Employer/Program
Auxiliary Aids and Services are available
upon request to individuals with disabilities



Mediation As An Alternative Dispute Resolution Process

Introduction

Oregon's Methods of Administration (MOA) documents the steps agencies and service providers are taking to assure equal opportunity and to prohibit discrimination on the basis of race, color, religion, gender, national origin, age, disability, political affiliation or belief, and for program applicants and participants only, citizenship or participation in a WIA Title I financially-assisted program or activity.

Any discrimination complaint filed under the MOA procedures is reviewed and investigated by a WorkSource Oregon Center or Regional Equal Opportunity Coordinator (EOC). As part of the investigation process, the EOC will offer alternative dispute resolution to the person filing the complaint (complainant) and arrange, if using local resources, if the person so chooses.

It is the policy of the State of Oregon that mediation is the preferred method of Alternate Dispute Resolution. This pamphlet is designed to provide information on the mediation process a complainant may choose in resolving disputes.

A. Mediation Program

Mediation is an informal dispute resolution process whereby a mediator, as an impartial third party, acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. Mediation is a structured, non-adversarial negotiation process, as well as a short-term process. The objective of mediation is to help disputing parties reach a mutually acceptable agreement and to address and resolve allegations of discrimination. Should a person using WorkSource Oregon services wish to file a Complaint of Discrimination in employment or provision of services, the complainant shall be advised of the option to enter Mediation as a problem solving intervention process. The complainant shall have the option of either having the complaint mediated or investigated. If mediated, the information and issues discussed during the meetings will not be disclosed, regardless of the outcome and whether the process is successful or not. If the option of mediation is not selected, the formal investigation process will begin.

B. EO Coordinator Responsibilities and Role of Mediator

All requests for mediation shall be processed through the Worksource Oregon Center or regional EO Coordinator. The Coordinator shall identify a mediator who will be responsible for bringing together the parties in the complaint. The mediator also shall:

- Act as a neutral officer
- Maintain strict confidentiality
- Help facilitate communication between the parties
- Assist parties in coming to their own agreement
- Make recommendations or suggestions to the parties, but not impose decisions upon the parties

- Appoint mediation representatives with authority to bind the subrecipient in the event an agreement is reached during mediation
- Support written agreements reached as a result of mediation, and
- Approve appropriate sanction(s) if written agreement is breached

C. Mediation Procedures

The EO Coordinator shall:

- Contact the individual or entity that the complainant alleges is responsible for the discrimination (respondent) within 5 days of receipt of the discrimination complaint and request to act as a go-between to determine the party's willingness to mediate and secure a written agreement to that effect.
- Request that the agreement to mediate be returned to the EO Coordinator within 5 days (No later than the tenth calendar day after the complaint is received).
- Send written confirmation of the mediation conference to each party. The letter shall include the date, time, and location of the mediation conference, and a statement of the issues and the relief sought. Persons representing the parties shall also be notified.
- Each mediation must be held in sufficient time to reach resolution or closure within 90 days of the initial filing date of the complaint.
- Extensions of time constraints will only be granted when compelling conditions warrant and may not be cause to extend the closure of the case beyond 90 days.

1. Mediation Setting

Mediation will be held in rooms that are private and in a location that will assure undisturbed mediation. Provisions will be made to ensure facilities utilized are accessible. Reasonable accommodations will be made to persons with disabilities or persons with Limited English Proficiency. To encourage disputing parties' participation, sessions should be as informal as possible.

Mediation will normally be held in face-to-face situations, but may be held via telephone conference or video teleconference when extreme circumstances warrant.

2. Opening Statement of mediator

The opening statement will include four main points:

- a) The introduction of the mediation and a statement regarding the mediator's qualifications;
- b) A definition of mediation, the declaration of the mediator as a third party, and a discussion of confidentiality;

- c) An explanation of the ground rules (i.e. courtesy, one party speaks at a time, keep the focus of discussion solution oriented rather than problem oriented, etc.); and
- d) Confidentiality is an issue that all parties must agree about for the mediation to continue.

3. Opening statement of the Parties

Each party will make an opening statement. In the opening statement, each party will identify the issues and facts surrounding the dispute and indicate the desired outcome.

4. Clarifying Issues/Examining Resolutions

How the mediation session proceeds at this point is determined by the readiness of the parties to enter into dialogue. The mediator may use any or all of the following techniques to facilitate discussion:

- Ask direct questions;
- Brainstorm for possible solutions;
- Paraphrase and frame proposed resolutions; and
- Meet with the parties privately to clarify issues, explore options, or identify possible solutions or alternatives.

5. Confidentiality

- Mediation sessions will be closed to any individual other than the parties and their representatives, except by consent of both parties and the mediator.
- Communication and information disclosed during mediation is privileged and confidential and shall not be disclosed to any third party, except for purpose of implementing or enforcing the mutually agreed upon outcomes, or by written consent of both parties.
- During the mediation process, notes may be taken. However, once the final settlement agreement has been signed, all notes must be turned over to the mediator and disposed of in the presence of both parties.
- The EO Coordinator is responsible for maintaining the mediation files. A copy of the agreement, or documentation of the failure to reach an agreement, will be maintained in the subrecipient's complaint file along with the copies of the mediation election notice, notification letters, and similar pre-mediation documentation. Absolutely no information regarding proceedings of the actual mediation session will be included in any personnel file unless specifically agreed upon as part of the signed mediation agreement (i.e. a letter of counseling or warning to the offender might be requested as part of the agreement).

6. Intimidation and Retaliation Prohibited

Discrimination complaints often heighten feelings of distress and produce adversarial attitudes. Under these

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