

**EARLY DISPUTE RESOLUTION PROGRAM**

**1. PURPOSE**

This Directive provides:

- a. The Grain Inspection, Packers and Stockyards Administration (GIPSA) policy on the Early Dispute Resolution Program (EDRP).
- b. Employees with information about the EDRP. The program addresses both Equal Employment Opportunity (EEO) and non-EEO disputes. The program is more efficient and cost effective than other avenues of redress.

**2. REPLACEMENT HIGHLIGHTS**

This Directive replaces Directive 4771.1, Alternative Dispute Resolution, dated 8/21/08.

**3. AUTHORITIES**

- a. Administrative Dispute Resolution Act of 1996;
- b. Negotiated Rulemaking Act of 1996;
- c. Department of Agriculture Reorganization Act of 1994; and
- d. Equal Employment Opportunity Commission (EEOC) regulations on federal sector EEO complaint processing, 29 CFR 1614.
- e. Departmental Regulation 4710-001, Alternative Dispute Resolution, dated April 5, 2006.

**4. BACKGROUND**

The goal of establishing an EDRP is to effect long lasting solutions to employment issues. In addition, it also is effective in improving communication and building relationships through a more formalized process. Many of the concerns that employees have in the workplace involve interpersonal communication and relationships with their peers and supervisors. Establishing a GIPSA EDRP offers employees and customers who desire to resolve disputes that do not involve an allegation of discrimination, as well as those who do allege discrimination, a different avenue of redress to resolve their issues. When using the EDRP, parties do not give up their legal rights to file an EEO

complaint or grievance. The EDRP will be provided by a host of trained mediators through various means including in-house staff, contractors, and shared neutrals. However, many of the disputes that the Civil Rights Staff (CRS) receives do not belong in any of those venues, thus creating added time and cost to the Agency and its resources.

Traditionally, the established methods available Agencywide to resolve employee disputes are the EEO complaint process, the administrative or negotiated grievance systems, and the APHIS Conflict Prevention and Resolution (CPR) program.

## **5. POLICY**

- a. It is GIPSA policy to resolve disputes quickly and at the lowest possible level. This approach also decreases time, minimizes costs, and utilizes other resources expended in resolving conflicts in a more efficient and effective manner, and encourages, where possible, consensual resolution of disputes.
- b. This Directive establishes the use of EDRP, more specifically, mediation, as another method to resolve Agency disputes. The EDRP will not replace any of the other established methods, but will give employees, including managers and supervisors, another option of resolving disputes using the proven concept of mediation. This initiative implements the Secretary's policy of Alternative Dispute Resolution (ADR) and complies with the new Federal regulations requiring all Federal agencies to adopt and implement an ADR program.
- c. EDRP will be offered as a resolution option after the concerns have been identified and all resolution options have been explained. Mediation will be convened and conducted as soon as possible.

## **6. ACTION**

- a. Civil Rights Staff (CRS).
  - (1) When an individual files an informal complaint, EDRP will be made available for both the pre-complaint process and the formal complaint process as stated in 29 CFR Section 1614.102 (b)(2).  
[http://edocket.access.gpo.gov/cfr\\_2009/julqtr/pdf/29cfr1614.102.pdf](http://edocket.access.gpo.gov/cfr_2009/julqtr/pdf/29cfr1614.102.pdf)
  - (2) At the initial counseling session, the counselor will advise the individual that he/she may choose between participation in the EDRP and EEO counseling. If the matter is not resolved in the EDRP process within 90 days of the date the individual contacted the CRS, a Notice of Final Interview must be issued to the individual giving him/her the right to proceed with a formal complaint.
- b. Participants. The EDRP includes, but is not limited to:

- (1) The **individual**, with his/her representative.
- (2) The **responding management official (RMO)**. The RMO is the official who, according to the complainant's allegations, is responsible for the action or made the decision that allegedly harmed the individual.

NOTE: This means the complainant has identified the individual as being responsible for an action or decision which the complainant believes is discriminatory because of his/her race, color, religion, sex, national origin, age, disability, or in reprisal for prior EEO activity.

The RMO will not serve as the designated Resolving Official (RO).

- (3) The **RO**. This is the individual who has the authority to grant or deny the requested relief. The RO must have the authority to enter into a settlement agreement. Where delegation of authority limits a designee from exercising authority to settle a matter, the appropriate RO will be involved in the process (i.e., sign the agreement). The RO must negotiate in good faith and seek settlement options prior to participating in the mediation session.
- (4) The **mediator** is a trained neutral person who assists aggrieved parties in resolving workplace discrimination disputes. A mediator makes primarily procedural suggestions regarding how parties can reach agreement. Occasionally, a mediator may suggest some substantive options as a means of encouraging parties to expand the range of possible resolutions under consideration. A mediator works with parties individually or in caucuses to explore acceptable resolution options or develop a proposal that might move the parties close to resolution.

c. Mediation Process.

- (1) The preferred method of conducting mediation involves a face-to-face meeting with all parties. However, it is possible to conduct mediation via audio and video teleconference. The Agreement to Mediate must be reviewed and signed by all parties involved. The mediator will maintain control of the process and facilitate productive communication between the parties. The confidential provisions of the ADR Act apply to each mediation. Under the ADR Act, the parties' private oral communications to the mediator during mediation sessions are protected. The same is true for all written communication. The ADR Act does not offer protection from disclosing oral communications made with all parties present or any documents a party made available to all other parties.
- (2) The CRS will determine how much and what information from the complaint file will be provided to the mediator. Since mediation is normally offered at the beginning of the dispute, it may be determined that

the mediator will have access to all documents in the file and in other situations only provided the identified allegation. It is expected that the amount of information available at this time will be minimal.

(3) Agreements developed during mediation will focus on resolution of the concerns. During mediation, the parties may wish to resolve issues outside the complaint allegations, and/or issues outside of Title VII jurisdiction. The CRS will keep a copy of any written settlement reached in mediation in a protected file. The agreement will be available to the staff of the EDRP and may be shared with other Agency personnel who have a need to know in connection with their official duties and/or to effect the execution of the agreement.

d. Employees. All Agency employees should be committed to managing and resolving workplace conflicts. The Agency is convinced that EDRP will enhance the quality of work life by improving communication, strengthening interpersonal relationships, building trust, and enhancing skills that employees need to successfully manage and resolve conflict.

## 7. INQUIRIES

- a. For additional information on the EDRP, call the Civil Rights Staff at 202-720-9528.
- b. This Directive is available on the Internet at <http://www.aphis.usda.gov/library/gipsa/GIPSA.shtml>

/s/

J. Dudley Butler  
Administrator