

Defense Logistics Agency Instruction



DLAI 7412
September 24, 2009
DLA-DO

RESOLVE - Reach Equitable Solutions Voluntarily and Easily

References:

1. Title 29 of the Code of Federal Regulations (CFR), Part 1614.102 (b) (2)
2. EEOC Management Directive 110
3. DoD Directive 1440.1, amended November 21, 2003

1. **PURPOSE:** The purpose of this Instruction is to establish and implement processes for, and to promote, DLA's Alternative Disputes Resolution Program (RESOLVE).

a. Title 29 of the Code of Federal Regulations (CFR), Part 1614.102 (b) (2), requires agencies to establish and make available an ADR program. ADR provides a quick, informal, and cost-efficient means of addressing and resolving workplace disputes. RESOLVE stands for Reach Equitable Solutions Voluntarily and Easily. RESOLVE is DLA's alternative dispute resolution (ADR) program for equal employment opportunity (EEO) complaints. We do this process to provide a means to resolve workplace disputes quickly, informally, and amicably. This chapter describes RESOLVE's processes.

b. Typical outputs of the RESOLVE process are:

- 1) Agreement to mediate dispute.
- 2) Statement of work for contract mediator.
- 3) Resolution or settlement agreement.
- 4) Mediation evaluation data.
- 5) Case management system data.
- 6) Breach of settlement agreement decisions.

c. Performance measures. The focus of the RESOLVE process is to provide RIGHT FOCUS to workplace disputes at the RIGHT TIME.

d. How we measure performance. DLA will provide a quality work environment that optimizes employee performance. Specific metrics are:

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- 1) Usage of RESOLVE. This is the ratio of the number of EEO complaints mediated under the RESOLVE program during a fiscal year / the total number of EEO complaints during the fiscal year.
- 2) Resolution rate. This is the ratio of the number of resolution or settlement agreements reached under RESOLVE during a fiscal year / the total number of EEO complaints mediated under the RESOLVE program during the fiscal year.
- 3) Cost efficiency. This is the cost savings or avoidance realized by mediating the EEO complaint under the RESOLVE program during the fiscal year versus utilizing the formal process under 29 CFR Part 1614 processes during the fiscal year.
- 4) Time efficiency. This is the time savings realized by mediating the EEO complaint under the RESOLVE program during a fiscal year versus utilizing the formal process under 29 CFR Part 1614 processes during the fiscal year.
- 5) Participant satisfaction. This is a measure of participant satisfaction with the RESOLVE process. This measure is requested after every mediation.

2. APPLICABILITY This Instruction applies to all HQ DLA and DLA Field Activities.

3. POLICY: It is DLA policy to address and resolve workplace disputes quickly, informally and amicably. DLA Equal Employment Managers (EEMs) will determine if the RESOLVE program is suitable for the dispute. If determined to be suitable, the RESOLVE program shall be made available to the aggrieved person. If the aggrieved person elects to use RESOLVE, the affected supervisor(s) and management official(s) are expected to participate in the process except in limited circumstances.

4. RESPONSIBILITIES: Compliance and enforcement: The parties to the resolution or settlement agreement are expected to comply with its terms. An aggrieved person who believes that DLA management has not complied with the terms of the agreement may notify the DLA Corporate Equal Employment Opportunity Office of the alleged noncompliance within 30 calendar days of when he/she knew or should have known of the alleged noncompliance. The aggrieved person may request that the terms of the agreement be specifically implemented or that the complaint be reinstated for further processing under procedures set forth in 29 CFR Part 1614. The DLA Corporate Equal Employment Opportunity Office issues a final Agency decision on the alleged noncompliance. The aggrieved person may appeal DLA's final decision to the U.S. Equal Employment Opportunity Commission (EEOC). A decision from EEOC is binding on DLA and the parties. If DLA or EEOC find the agreement has been breached as alleged, it may order the terms of the agreement be specifically implemented or it may order the complaint be reinstated for further processing under the procedures set forth in 29 CFR Part 1614 from the point processing under those procedures ceased. See "EEO Complaints Processing."

5. PROCEDURES

a. Receive dispute: An aggrieved person who believes he/she has been discriminated against on the basis of race, color, religion, sex, national origin, age, or disability, or for having

previously participated in protected EEO activity must contact a DLA EEO Office or a DLA EEO Counselor. The aggrieved person must state the employment practice or policy being challenged and the basis for the complaint.

1). EEM determinations: The EEM will determine whether the complaint meets the conditions set forth in 29 CFR Part 1614 for acceptance. This includes a determination that the claim has been raised within the statutory time limits. If the claim is accepted for further processing, the EEM will determine if the dispute is appropriate for mediation under the RESOLVE program. If the dispute is appropriate for mediation under the RESOLVE program, the aggrieved person will be afforded an opportunity to elect to use the program.

2) Decision by aggrieved person: The aggrieved person elects whether to have his/her dispute mediated under the RESOLVE program or not. If the aggrieved person elects not to use RESOLVE, this process terminates and the claim is processed under procedures set forth in 29 CFR Part 1614. See "EEO Complaints Processing." If the aggrieved person elects to use RESOLVE, the EEM or his/her designee and the aggrieved person execute an agreement to mediate the dispute. The agreement includes the aggrieved person's consent to extend the statutory informal complaint processing period for a maximum of an additional 60 days. If the aggrieved person chooses not to execute this agreement, this process terminates and the claim is processed under procedures set forth in 29 CFR Part 1614. See "EEO Complaints Processing."

3) Arrange mediation: The EEM selects a qualified mediator either from the DLA mediator list for personnel disputes, through a personal service contract, or through a shared neutrals arrangement with another agency. The mediator is provided a copy of the agreement to mediate the dispute, which summarizes the issue(s) accepted for mediation, the parties, and any special needs or considerations. The EEM will coordinate the date and time for the mediation between the parties and the mediator, provide funding, and arrange for an appropriate facility for the mediation. As appropriate, the mediator may assist in coordinating dates and times and places for the mediation.

4) Conduct mediation: Guided by the mediator, the parties meet to attempt to resolve the dispute. If a resolution is reached, the parties execute a resolution or settlement agreement. If a resolution is not reached, the dispute is returned for processing under procedures set forth in 29 CFR Part 1614. See "EEO Complaints Processing."

5) Post-mediation actions: The parties are asked to complete a mediation evaluation form for the purpose of providing feedback to the RESOLVE program manager about the quality of the process and the parties' satisfaction with it. Data obtained from this feedback is used to evaluate the effectiveness of the program and to point to needed program or policy changes. The EEM completes a case management system data form. This form provides basic summary data about the mediation. The EEM sends the form to the DLA Field Activity General Counsel. Data from the form is merged with other data on ADR programs managed by DLA. Data obtained from this form is used to track the cost of the mediation as compared to the estimated cost of processing the dispute under the procedures set forth in 29 CFR Part 1614. It also tracks whether mediation resulted in a settlement of the dispute.

6. EFFECTIVE DATE March 12, 2002

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ENCLOSURE:

RESOLVE Process Flowchart

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