



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

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Conflict Resolution Policy

/s/

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Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

The Bureau of Prisons (BOP) is committed to an agency culture that is free of any type of workplace conflict. Where conflict arises, it is the goal of the BOP to resolve it at the earliest stages.

For the purposes of this policy, “workplace conflict” is defined as any type of dispute that takes place within a workplace among workers and/or managers. Conflicts can be due to disagreements or differences of opinion. The conflicts that arise in workplaces may be shaped by the unique aspects of the work environment.

This policy is intended to assure that the BOP, in conjunction with the Union, takes all necessary steps to address workplace conflict at the earliest stages and to establish processes through which employees may seek informal resolution.

If an employee chooses to participate in any of the informal resolution options listed in this policy, it is his/her responsibility to protect his/her rights with regards to the timeframes in the Equal Employment Opportunity (EEO) process, Master Agreement, agency grievance process, or any other statutory process. Nothing in this policy alters the timeframes for filing complaints on grievances pursuant to the EEO process, Master Agreement, agency grievance process, or other statutory processes.

2. PROGRAM OBJECTIVES

The expected results of this program are:

- To ensure staff have options to resolve workplace conflict.
- Employee(s) may report issues of workplace conflict to any supervisor or Union official to be properly addressed by the CEO.

3. ACTION REQUIRED

Each Chief Executive Officer (CEO) (Regional Director, Assistant Director, Warden, Staff Training Center Director) will ensure a work environment in which workplace conflict is addressed. Additionally, he/she will ensure that a cooperative effort is made with the Union to resolve such conflicts through available resources.

Each CEO will provide sufficient resources and support to implement the Conflict Resolution Policy as specified in this Program Statement.

Each CEO will implement the Bureau's Conflict Resolution Policy by:

- Ensuring that he/she will attempt informal resolution of workplace conflicts which have been brought to his/her attention in addition to utilizing the procedures described in this policy.
- Notifying all employees and posting permanently on official bulletin boards the names, titles, telephone numbers, and addresses of the Dispute Resolution Specialist(s) described in Chapter 2 of this policy.
- Ensuring that each institution maintains a Dispute Resolution Specialist(s).
- Ensuring that the Bureau's Conflict Resolution Policy is covered during Annual Refresher Training, including instructions on the Dispute Resolution Program described in Chapter 2 of this policy.
- Ensuring that local implementation of the Conflict Resolution Policy is consistent with the procedures outlined in this Program Statement.

4. DISTRIBUTION

All Bureau CEOs will ensure that each current employee and new employee in their organizational units have access to this Program Statement.

5. INSTITUTION SUPPLEMENT

None required. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

6. AGENCY ACA ACCREDITATION PROVISIONS

None.

REFERENCES

Program Statements

P3713.26	Bureau of Prisons Anti-Harassment Policy (6/16/14)
P3713.25	Bureau of Prisons Anti-Discrimination Policy (6/16/14)
P3713.24	Discrimination and Retaliation Complaints Processing (6/16/14)
P1210.24	Internal Affairs, Office of (5/20/03)
P1221.66	Directives Management Manual (7/21/98)
P1330.16	Administrative Remedy Program (12/31/07)
P1601.04	Workers' Compensation Program (9/11/02)
P3000.03	Human Resource Management Manual (12/19/07)
P3420.11	Standards of Employee Conduct (12/6/13)
P3713.21	Affirmative Action and Diversity Management Program (5/16/01)
P3730.05	Workplace Violence Prevention, Staff (3/23/04)
P3792.07	Employee Assistance Program (EAP) (12/30/06)

Other Resources

Administrative Dispute Resolution Act, 5 U.S.C. 571

www.adr.gov

Master Agreement between the Federal Bureau of Prisons and the Council of Prison Locals (July 21, 2014 – July 20, 2017)

<http://sallyport.bop.gov/co/dir/ombudsman/index.jsp>

BOP Forms (available on Sallyport)

BP-A1063	Mediation Election Form
BP-A1064	Mediation Outcome Form

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) system on Sallyport.

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Chapter 1. MEDIATION

1. MEDIATION DEFINED

Mediation is the intervention in a dispute or negotiation of an acceptable, impartial, and neutral third party, who has no decision-making authority. The objective of this intervention is to assist the parties to voluntarily reach an acceptable resolution of the issues in dispute.

The mediator has no authority to render decisions. He/she is a neutral facilitator who is skilled at working with the parties to resolve their dispute. The mediator is not an arbitrator or judge. A mediator primarily makes procedural suggestions regarding how parties can reach a resolution. Occasionally, a mediator may suggest substantive options as a means of encouraging the parties to expand the range of possible resolutions under consideration. A mediator often works with the parties individually, in caucuses, to explore acceptable resolution options or to develop proposals that might move the parties closer to resolution.

Mediators differ in their degree of “directiveness” or control in their assistance to disputing parties. Some mediators set the stage for bargaining, make minimal procedural suggestions, and intervene in the negotiations only to avoid or overcome a deadlock. Other mediators are much more involved in forging the details of a resolution. Regardless of how directive the mediator is, the mediator performs the role of a catalyst that enables the parties to initiate progress toward their own resolution of issues in dispute. The parties dictate the outcome of the mediation, not the mediator. The mediator may draft any agreements reached by the parties.

The format of the mediation session is as follows. Typically, the mediator meets with both parties together in a joint session. At this session, the mediator may initially ask each party to briefly describe the workplace conflict. The mediator may ask each party what he/she is seeking to accomplish in the mediation; i.e., what it will take to resolve the dispute. At the conclusion of the joint session, the mediator will typically meet with each party separately. These sessions will allow the mediator to ask more direct questions of the parties without putting the other person on the spot. At the conclusion of the separate sessions, it is up to the mediator whether he/she will convene additional separate sessions or will bring the parties back together for another joint session.

Mediation sessions are confidential. At the beginning of the mediation, all parties in the room are required to sign an agreement provided by the mediator, which states that everything discussed in the room is confidential. This agreement also states that neither party can subpoena or depose the mediator in the event of future litigation. At the conclusion of each separate session, the mediator will also ask each party what they do not want him/her to share with the other party. The mediator is bound by these requests of confidentiality.

The parties should come fully prepared to discuss the facts that led to the dispute. Documentation is not necessary. Parties will have the opportunity during breaks to obtain whatever documentation they feel the other side should read. The parties should also be able to discuss what they believe will resolve the issue. Typically, the mediator will have no knowledge of the facts prior to the mediation.

A typical mediation session lasts four to six hours. The mediator will contact all parties prior to the session to coordinate a time convenient to all parties. Mediations will be conducted during normal business hours.

If a resolution is reached as a result of the mediation, the mediator will summarize the resolution in accordance with part 4 of this chapter. At the conclusion of the mediation session, all notes taken by the mediator or any of the parties must be destroyed.

2. REPRESENTATION DURING MEDIATION

In a mediation, the number of parties on each side will typically be a maximum of two. If either side wants to bring an additional party for any reason, they must receive the permission of all parties. However, national officers of the Union may attend mediations of bargaining unit member disputes and will not be counted towards the maximum number of participants. In those instances, management may also add an additional participant.

Representation of bargaining unit staff members must be in accordance with all applicable Federal laws and regulations, the Master Agreement, and Bureau policy.

All bargaining unit participants will be on official time during the mediation. Non-bargaining unit participants will be on duty time during the mediation.

3. MEDIATORS (NEUTRALS)

The Bureau may use mediators from the following sources: other Federal agencies (through a Federal neutral sharing program or other arrangement), private organizations, private contractors, bar associations, or individual volunteers. (If a mediator is obtained from the private sector, the procedures in the Federal Acquisition Regulation must be followed.)

In a mediation conducted under this Program Statement, the neutral's duty to the parties is to be "neutral, honest, and to act in good faith." The neutral must:

- Ensure that proceedings are fair, and that all parties are participating in good faith.
- Ensure confidentiality, including the destruction of all written notes taken during the mediation or in preparation for the proceedings.

- Ensure neutrality, including having no conflict of interest with respect to the proceedings.

The BOP does not use its own employees as mediators. Should one of the parties find the selected mediator unsuitable, that party should contact the Mediation Coordinator, who is located in the Office of Conflict Resolution, Equal Employment and Diversity (CREED), to request the selection of another mediator.

4. RESOLUTIONS

If the parties agree to a resolution of the matter, they can decide if they want the terms of the resolution in a signed written agreement. Any written agreement must state clearly the terms of the resolution. All parties to the mediation will be provided a copy of any written resolution.

A Mediation Outcome Form (Attachment A or BP-A1064) will be completed by the mediator and signed by all parties. The mediator will provide a copy of the completed form to the Mediation Coordinator. If a bargaining unit staff member was a party to the mediation, the Mediation Coordinator will then forward a copy to the CEO and the local Union President. If there are no bargaining unit staff members as parties, the Mediation Coordinator will forward a copy solely to the CEO.

5. ELECTION AND APPROVAL OF MEDIATION

If a bargaining unit staff member is involved in the dispute, the request for mediation will be initiated upon agreement between the CEO and the local Union President. If the parties to the mediation are strictly non-bargaining unit staff, the CEO will make the request solely. All requests must be made on the Mediation Election Form (Attachment B or BP-A1063) and submitted to the Mediation Coordinator. If the Mediation Coordinator believes the issue(s) is not appropriate for mediation, he/she will contact the CEO (and the local Union President if a bargaining unit staff member is one of the parties), in conference, to discuss his/her concerns. If mediation is deemed appropriate, the CEO (and local Union President if a bargaining unit staff member is one of the parties) will notify the Mediation Coordinator as to who are the parties to the mediation.

As soon as practical, the Mediation Coordinator will assign a mediator who will contact all parties to arrange a mutually acceptable date and time. Bargaining unit staff may refuse to participate in mediation by notifying the mediator or Mediation Coordinator. The mediation will take place at the facility at which the parties are located unless an alternate location is agreed upon by all parties.

Chapter 2. DISPUTE RESOLUTION SPECIALIST (DRS)

A DRS program will be implemented at every facility in the Bureau to include Central Office, Regional Offices, Grand Prairie, and the Staff Training Centers. Staff assigned to Residential Re-entry Centers (RRCs) should utilize the DRS attached to their parent institution. The CEO and local Union President can determine the number of DRSs needed for their facility or facilities.

The DRS is a collateral duty staff member who is available to resolve workplace disputes upon contact by a staff member. No staff member can be compelled to use the services of the DRS. The program is entirely voluntary and initiated by the staff member. The DRS will have 15 calendar days from the date of contact to attempt to assist in resolving the dispute unless the time period is extended by the staff member.

1. SELECTION OF DRS

The DRS position is not advertised. The CEO and Union President will jointly select one or more individuals based on the following criteria (if the CEO and Union President cannot mutually agree on a selection, the issue will be referred to the Regional Director and Regional Vice President for assistance):

- **Neutrality.** It is important for the DRS to be universally perceived by employees as a neutral. For example, this individual should not ordinarily advise management or the Union on personnel issues.
- **Credibility.** The DRS should be: (1) viewed by staff as credible; (2) perceived by staff to be fair, objective, and thorough; and (3) someone who staff feel comfortable approaching to discuss their concerns.
- **Accessibility.** The DRS should be easily available for all staff to contact.
- **Confidentiality.** In order for staff to feel comfortable discussing their issues and concerns with the DRS, he/she must be someone who can maintain confidentiality.
- **Good People Skills/Good Communication Skills.** The DRS must be someone with good people and communication skills, and also a good listener.
- **Good Problem Solving Skills.** The DRS should possess good problem solving skills. He/she should have the ability to discuss creative solutions with both parties involved in the issue. Any experience in problem solving will be beneficial.

2. TRAINING OF DRS

Prior to assuming the duties of the DRS, the newly selected staff member must complete the required BOPLearn training.

3. REMOVAL OF A DRS

At any time and for any reason not otherwise prohibited by law, the CEO or Union President may unilaterally remove the DRS. If a DRS is removed by either party, both parties must meet to begin the selection process for a new DRS at the earliest practicable time.

4. WHO CAN UTILIZE THE SERVICES OF THE DRS

Any staff member may utilize the services of the DRS. The dispute can involve a co-worker, a supervisor, or a subordinate. The only issues the DRS should not become involved in are those which he/she is aware involve an open Office of Internal Affairs (OIA), Special Investigative Supervisor (SIS), or Special Investigative Agent (SIA) investigation.

5. PROCEDURES UTILIZED BY THE DRS

Prior to having any discussions with the staff member seeking assistance, the DRS will provide him/her with a copy of the Dispute Resolution Process document, Attachment C.

If the staff member wants the DRS to attempt to seek resolution of his/her issue, the DRS will use conflict resolution skills to meet with all of the parties involved. There will be no formal documentation of any agreements reached.

6. DRS REPORTS

The DRS does not maintain any documentation regarding the individuals seeking his/her assistance. Twice a year (October 1 for period of April 1 to September 30 and April 1 for period of October 1 to March 31), he/she will submit a report to the CEO, Union President, and Regional Affirmative Employment Administrator listing the information on the Reporting Information Form (Attachment D). The Regional Affirmative Employment Administrator will submit a regional report to the Mediation Coordinator, Regional Director, and the National Vice President for Women and Fair Practices.

Chapter 3. CONFLICT RESOLUTION TEAM (CRT)

Some of the resources available to resolve conflict in the workplace are:

- Dispute Resolution Specialist.
- Ombudsman.
- Union.
- Mediation.
- Training.

A conflict resolution team (CRT) *may* be activated to deal with problematic workplace issues after other mechanisms have been attempted. The purpose of the CRT is to identify the workplace issues, attempt informal resolution, and provide verbal feedback to those individuals deemed appropriate by the CRT.

The CRT consists of one member selected by the EEO Director and one by the national Union. Any of the following individuals may recommend the activation of the CRT by notifying the EEO Director or EEO Officer, who will assist with coordination:

- EEO Director.
- EEO Officer.
- National Vice President for Women and Fair Practices.
- National Union President.
- Regional Director.
- Regional Vice President of the Union.

The EEO Director makes the final decision on the activation of the team.

Travel costs for the CRT will be paid by the Bureau.

Attachment A. Mediation Outcome Form (also available on Sallyport as BP-A1064)

___ Dispute Resolved, written agreement

___ Dispute Resolved, no written agreement

___ Dispute NOT resolved

Signature of involved parties:

Party Signature

Party Signature

Mediator Signature

Date

Attachment B. Mediation Election Form (also available on Sallyport as BP-A1063)

___ I hereby elect mediation to resolve my workplace dispute.

1. What is the problem(s) that you would like resolved?

2. Summarize the facts leading up to the problem(s) in chronological sequence.

3. What are the possible solutions that might resolve the problem(s)?

Signature/Date

I plan to bring the following representative to mediation: _____

Attachment C. Dispute Resolution Process

1. The dispute resolution process is a voluntary, informal process in which the Dispute Resolution Specialist (DRS) will attempt to assist you in resolving your dispute.
2. The dispute resolution process does not supersede the EEO, Union grievance, or agency grievance processes. It is merely another avenue to attempt informal resolution of your dispute.
3. You are advised to protect the timeframes involved in the other processes mentioned above. Thus, if you plan to file an EEO complaint, you must initiate contact with an EEO Counselor within 45 days of the date of the matter alleged to be discriminatory; or, for personnel actions, within 45 days of the effective date of the action (see 29 C.F.R. 1614.105).

If you plan to file a formal grievance under the Master Agreement, you must file one within 40 calendar days of the date of the alleged grievable occurrence, or within 40 calendar days of when the party can reasonably be expected to have become aware of the grievable event. A grievance can be filed for violations within the life of the Master Agreement; however, where the statutes provide for a longer filing period, the statutory period will control (see Master Agreement, Art. 31).

If you plan to file an agency grievance (for staff who are not members of the bargaining unit), you must present it within 15 calendar days after the incident occurs. See Department of Justice, Human Resource Order DOJ-1200.1, Chapter 3-2 (July 12, 2000). (See Merit Systems Protection Board rules for their timeframes.)

Participation in the informal dispute resolution process does not alter the above timeframes. Thus, it is your responsibility to protect your rights regarding these timeframes.

4. The DRS will maintain confidentiality in the process. In order to attempt to informally resolve your dispute, however, the DRS must have your permission to discuss the issues with relevant management staff.
5. **As a Bureau employee, the DRS must report any allegations of violations of the Standards of Employee Conduct.**
6. The DRS will have 15 calendar days from the date of your initial meeting to attempt to resolve the issue unless you provide an extension.

Attachment D. Reporting Information

Institution:_____

Reporting Period:_____

Gender (M/F) :

Management/Non-Management:

Category of Dispute:

Resolved? (Yes or No):

If Resolved, Time to Resolve:

Time Spent on Miscellaneous Contacts: