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DEPARTMENT OF VETERANS AFFAIRS

VISN X MEDIATION PROGRAM INFORMATION SHEET

What is the VISN X Mediation Program?

The VISN X Mediation Program was created to

It offers mediation as an alternative to resolve problems and disputes before the parties get involved in more formal process, and can be used anytime both parties are willing to use it.

What is Mediation?

Mediation is an informal way complainants can resolve disputes with a fellow employee, manager or colleague. In mediation, a neutral person called a Mediator, helps two or more persons explore ways to resolve their differences and reach an agreement that best addresses their interests. Mediation is a totally voluntary process and unless all parties want to participate in the process, time and resources should not be expended. All parties must be willing to work the problem out between themselves. Mediation, unlike arbitration or court proceedings, does not focus on who is right or who is wrong. The Mediator has no power to make the decision for the parties or tell the parties what they should do. It is the parties themselves who decide what is important to each of them and make decisions based on those factors. A Mediator helps the parties become the decision makers by understanding and listening to each other and by working together to create options and solutions which meet their concerns.

Why Should You Use the Mediation Program?

Mediation is faster, less formal and cheaper for all parties involved, both in time, resources and money. Neither party gives up any rights when they use

the Program. Mediation is just one more way to resolve disputes and has been used by other Federal agencies with great success.

Mediation is a type of problem solving process that:

- Helps the persons having the problem to communicate with each other;
- Allows the persons affected to create their own solutions and examine unique solutions to a problem instead of taking the problem to a judge, arbitrator or another outside decision maker; and
- Helps the persons involved to develop realistic and mutually satisfactory solutions.

What is the Role of the Union in the Mediation Program?

When can you use Mediation?

When does the Mediation Process Begin?

The mediation process is initiated by

How Does the VISN X Mediation Program Work?

Who is Involved in the Mediation Process?

Aggrieved person: Anyone in VISN X who is a current or former VHA employee, who has a problem that they would like to bring to mediation can participate in the Program.

Union:

Management participant: The VA executive staff member or manager (or designee) who is authorized to discuss and execute settlement agreements on behalf of the Department.

Mediator: A fair, neutral and impartial third party, trained and skilled in conflict resolution techniques, who has been approved to participate in the VISN X Mediation Program. Where it might be beneficial, comediation sessions may be conducted in which two Mediators are assigned to help the parties reach settlement.

Other Team Members: Generally, only the Mediator, the aggrieved person, the union, and the management participant (and their respective representatives, if desired) are present in the room where a mediation takes

place. Behind the scenes, a small team of people may be aware of the issues and provide support to the resolution effort, though they are not included in the confidential mediation discussion. This team may include the Labor Relations Specialist, the EEO counselor, and the EEO coordinator.

Attorneys: Parties may use attorneys in the process if they see a need. The role the attorney will play in the process should be discussed with the Mediator prior to the start of the mediation session.

Are Mediation Sessions Confidential?

Yes, the Mediator will protect the confidentiality of the parties and the mediation process. The mediation sessions and all materials disclosed during the mediation are confidential. Both parties must agree to confidentiality. Mediators will not testify concerning the mediation discussions. In addition, Mediators do not disclose anything that one of the parties asks them, in a separate session, not to disclose to the other party. Of course, if the case is not settled and goes to formal litigation, each party could use the court process to obtain documents which would normally be obtained through the litigation process or pursuant to the *Freedom of Information Act*.

Will an Aggrieved Party's Rights to Pursue Court and Administrative action be Affected if He or She Decides to Mediate the Issue?

No. If unresolved issues remain at the end of the mediation, the Mediator and the complainant will state these issues in writing during the final mediation session, and the complainant may continue processing them through the formal complaints process.

How Does the VISN Select and Train Mediators?

The Partnership Council from each facility was asked to VA Mediators provide their services as a collateral duty, in much the way EEO counselors provide their services.

While it is hoped that neutral Mediators can be obtained from a pool of VA employee Mediators, if for some reason this does not happen, the VA may be able to obtain mediators from other federal agencies on a sharing basis.

How Can You Obtain Further Information About the VISN X Mediation Program?

For more information, contact

A. INSTRUCTIONS - REQUEST/CONSENT FOR MEDIATION.

This sheet gives preliminary instructions about the mediation process.

B. MEDIATION REQUEST/CONSENT FORM. This is the sheet by which the request for mediation is initiated. I drafted it so that everyone could agree to (or decline) the mediation process on the same document. I also tried to fashion the document so the request for mediation could be jointly made.

C. AGREEMENT TO PARTICIPATE IN MEDIATION. This is the form which all persons participating in the mediation must sign before beginning the mediation session. It can be done at or before the mediation session. This is the form that sets forth all the terms under which the mediation is being conducted, and under which the parties are participating. It binds all parties to confidentiality and states that all rights the parties have without the mediation are preserved. Technically, it should be signed before the mediator receives any confidential information.

D. USER SATISFACTION SURVEY. This is a form I created using several surveys of several programs.

E. MEDIATION INFORMATION SHEET. This is a handout I created for another program which, if you think it is a good idea, could be modified for your program. It could be edited so union officials, management officials, labor management specialists, etc., would have something to give interested persons explaining the program and answer some of their questions about mediation. Naturally, it would have to be tailored to your program, but I thought it might be helpful.