

OEEO
Mediation
Program

A GUIDE TO EARLY REDRESS
OF NYPD EEO COMPLAINTS



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MESSAGE FROM THE
POLICE COMMISSIONER

This informational brochure explains the details of the Department's Mediation Program, an early dispute resolution program designed to help resolve employment discrimination complaints at the earliest possible stage, without the need of a formal investigation.

The mediations will take place outside the Police Department, before an independent, neutral mediator who is not a member of the Department.

The goal of the mediation program is to resolve employment discrimination complaints expeditiously, while allowing each party to express his or her concerns regarding workplace behavior.

The importance of this program cannot be overstated. Mediation affords an opportunity for both parties and their representatives to sit down before a neutral party and jointly resolve their differences. There will **be no formal disciplinary charges or personnel record entries** at the end of a successful mediation. Successful mediation results in a workplace free of conflict and discord.

I urge members of the Department to take advantage of this new important program being offered by the Office of Equal Employment Opportunity.

Mediation of EEO Complaints

The New York City Police Department's Office of Equal Employment Opportunity has developed a voluntary program for early redress of internal employment discrimination complaints utilizing outside mediators.

The Early Redress Mediation program would attempt to resolve discrimination and retaliation complaints without the necessity of formal investigations. Mediations would be voluntary, confidential proceedings held before a neutral mediator with the complainant, the respondent, and representatives of each.

Certain EEO complaints can be handled efficiently and professionally without the need for formal interrogations and hearings. The NYPD Office of Equal Employment Opportunity (OEEO) has identified the NYC Office of Administrative Trials and Hearings (OATH) as a provider of a neutral mediation service available to all members of the Department whose EEO internal complaints are suitable for mediation. The procedure is NOT adversarial, but is a means of finding a mutually acceptable end to the parties' differences. Indeed, the parties must mutually agree to participate in the mediation process, and mutually agree to the outcome of the complaint. Trained, experienced mediators conduct the OATH mediations. The mediations will occur at a neutral location, the offices of OATH, 40 Rector Street, in a conference room setting.

SOME ADVANTAGES TO MEDIATING EEO

COMPLAINTS:

- Complaints can be heard and resolved quickly
- Mediation is a confidential process that can be more personal and less confrontational
- Both parties can express their concerns in a confidential informal setting and can work out their own solutions with the help of a neutral third party
- When complaints are successfully mediated, no CPI entries are made and no charges and specifications are brought
- The parties contribute to and have greater flexibility in shaping a resolution to the complaint

HOW MEDIATION WORKS

- Mediation is strictly voluntary, so both the complainant and the subject of the complaint must agree to mediation
- All parties must sign a confidentiality agreement prior to the commencement of the mediation, indicating that any statements or information disclosed at the session cannot be used as evidence or in any other way
- By agreeing to mediate, the parties do not waive their right to a formal investigation of the EEO complaint, but the investigation will be suspended pending completion of the mediation
- Either party has the right to end the mediation at any point and, if no agreement can be reached, the mediation is concluded
- At the conclusion of a successful mediation, all parties to the mediation receive a signed copy of the mediation agreement resolving the EEO complaint

HYPOTHETICAL SCENARIOS:

I A female Detective alleges gender and pregnancy discrimination in that when she returned from maternity leave she was not reassigned to a detail, even though two male officers with less experience replaced her in the detail. She wants her position back.

Parties Present at Mediation:

1. Female Detective
2. Commanding Officer



Result of Mediation:

Mediator instructs female detective on the applicable law on gender and pregnancy discrimination. The 1978 amendment to Title VII of the Civil Rights Act of 1964 (The Pregnancy Discrimination Act) does not provide that a woman returning from maternity leave is entitled to the same work position and situation (i.e. same tour, desk, and office). Commanding Officer offers to notify the Female Detective if an opening in her previous detail becomes available so that she can reapply.

- A. Explanation of applicable law.
- B. Provided with a copy of the applicable law.
- C. Commanding Officer will notify female detective if an opening becomes available so that she can reapply.

II An African-American Detective alleges race discrimination in that he was given fewer cases to work on and assigned to perform administrative functions more often than white counterparts.

Parties Present at Mediation:

1. Detective
2. Detective's Supervisor



Results of Mediation:

A discussion is held regarding Detective's work product. Supervisor states that Detective generally takes longer than the rest of team to complete an assignment which is why he is given fewer cases. Additional training is suggested. Supervisor agrees to assign more cases to Detective. Detective agrees to work with more experienced investigators in an attempt to improve his work performance.

Supervisor expresses surprise at the allegation regarding administrative functions, stating that Detective's organizational skills are exceptional and he performs administrative functions very well. Supervisor further states that Detective never complained about being assigned these duties and never requested more cases to work on. Supervisor agrees to distribute more evenly the administrative functions amongst the unit.

- A. Offer of additional investigative training.
- B. Assignment of more cases.
- C. Redistribution of administrative functions.

III Female PAA alleges gender discrimination which creates a hostile work environment. Female PAA's desk is located in a very busy area of the office. Female PAA alleges that sexual conversations take place in her work vicinity and pornographic magazines were placed in her desk drawer. She discards the magazines. A few days later, she finds pictures from these pornographic magazines in her desk drawer again.

Parties Present at Mediation:

1. Female PAA
2. Supervisor of unit

Results of Mediation:

Female PAA indicates that she is unhappy with the location of her workstation because it is in a busy area of the office. She states that uniform members of the service are constantly walking by and are often engaged in conversations that are sexual in nature, making her very uncomfortable. The supervisor states that she was unaware of the problem and is willing to place the PAA in another, less congested area. In addition, the entire unit will be retrained in EEO policies and sensitivity training.

- A. *EEO Training for Command.*
- B. *Supervisor will move Female PAA's workstation*



IV Male School Safety Agent alleges sexual harassment in that a fellow Female School Safety Agent is repeatedly asking him out on a date. The Male School Safety Agent has declined her offers and has asked the Female School Safety Agent to leave him alone.

Parties Present:

1. Male School Safety Agent
2. Female School Safety Agent

Results of Mediation:

Female School Safety Agent apologizes for her conduct stating that she did not realize she was being offensive. She agrees not to ask Male School Safety Agent out anymore and agrees to leave him alone.

- A. *Apology.*
- B. *Agreement to cease offensive behavior.*

