

**FEDERAL AVIATION ADMINISTRATION  
EQUAL EMPLOYMENT OPPORTUNITY  
ALTERNATIVE DISPUTE RESOLUTION**

**AGREEMENT TO USE A DISPUTE RESOLUTION PROCEEDING**

**Designation of the Parties and Issues:**

The following are to be filled in by the EEO counselor: designation of the Aggrieved Person, the office against which the allegations are made, and the alleged discriminatory issues.

This agreement is between

\_\_\_\_\_ (Aggrieved Person)

and

\_\_\_\_\_ (Affected FAA Office)

represented by

\_\_\_\_\_ (Agency official)

The parties agree to enter into mediation or another form of dispute resolution with the intent of reaching a mutually agreeable resolution of the dispute regarding (separately list each allegation that is part of the dispute and include the complaint number, if one has been assigned, otherwise list the date of initial contact with the EEO Counselor). Issues may be listed on a separate sheet of paper and attached.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Designation of Representative:**

*The Aggrieved Person designates her/his representative, if s/he desires a representative, for this dispute resolution proceeding.*

\_\_\_\_\_ (Representative's name)

\_\_\_\_\_ (phone number)

is hereby designated by the Aggrieved Person as her/his representative for the purpose of this dispute resolution proceeding.

**Confidentiality Clause for Representatives:**

We, the undersigned, agree not to disclose confidential information, unless: (1) all parties agree in writing to disclose the information; (2) the information has already been made public; (3) the disclosure of the information is required by law; or (4) a court determines that disclosure of the information is necessary.

\_\_\_\_\_  
Aggrieved Person Representative    Date    Agency Representative    Date

**Provisions of the Agreement and Signatures:**

1. The parties agree that the pre-complaint process is extended by 60 calendar days. The total EEO counseling period may not exceed 90 calendar days from the date EEO counseling began.
2. Mediators/neutrals are neutral third parties who will assist the parties to reach a mutually satisfactory resolution of the dispute. Mediators/neutrals will not make judgments or impose a resolution.
3. Mediators/neutrals do not offer advice or provide legal counsel.
4. The parties have a right to have a representative of their choice accompany and advise them at anytime during the dispute resolution proceeding.
5. The confidentiality of the dispute resolution proceeding is established in the Administrative Dispute Resolution Act of 1996. A "plain English" summary of these confidentiality provisions is on the reverse side of this form and is a part of this agreement.
6. While the parties intend to continue with this dispute resolution proceeding until a resolution is reached, it is understood that either or both parties may withdraw from the proceeding at any time. It is agreed that if one or both parties decide to withdraw from the proceeding, the parties will discuss their decision in the presence of both parties and the neutral(s).
7. If the neutral(s) determines that it is not possible to resolve the dispute through this dispute resolution proceeding, the neutral can terminate the proceeding once it has been communicated to the parties.
8. If a tentative agreement is reached, the neutral(s) will prepare a resolution agreement with the parties for their review and signature.
9. No agreement is final or enforceable until signed by all parties.
10. If a resolution agreement is achieved, the Aggrieved Person agrees that the allegations/issues that formed the basis of the dispute will thereby be withdrawn, will no longer serve as the basis of a complaint against the agency or its agents, and will not serve as a basis for a future complaint.
11. If there is no resolution, the Aggrieved Person will be referred back to the EEO Counselor to complete the pre-complaint process.

The parties have read, understand, and agree to the provisions of this agreement.

\_\_\_\_\_  
Aggrieved Person    Date    Agency Official    Date

\_\_\_\_\_  
Neutral    Date    Neutral    Date

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**CONFIDENTIALITY PROVISIONS  
PLAIN ENGLISH SUMMARY**

The Administrative Dispute Resolution Act of 1996 (ADRA) provides for the confidentiality of the dispute resolution proceeding as follows:

a. Mediator/neutral. A mediator/neutral may not disclose confidential information, unless:

- (1) all parties agree in writing to disclose the information;
- (2) the information has already been made public;
- (3) the disclosure of the information is required by law; or
- (4) a court determines that disclosure of the information is necessary to:
  - (a) prevent manifest injustice;
  - (b) help establish violation of a law; or
  - (c) prevent serious harm to public health or safety.

b. Parties. A party to the dispute resolution proceeding may not disclose confidential information, unless:

- (1) the party prepared the information;
- (2) all parties agree in writing to disclose of the information;
- (3) the information has already been made public;
- (4) the disclosure of the information is required by law;
- (5) a court determines that disclosure of the information is necessary to:
  - (a) prevent manifest injustice;
  - (b) help establish violation of a law; or
  - (c) prevent serious harm to public health or safety;
- (6) the disclosure of the information is relevant to finding, understanding, or enforcing a resolution agreement resulting from the dispute resolution proceeding; or
- (7) except for information communicated by the mediator/neutral, the information was provided to, or available, to all parties.

c. Violations. Any confidential information disclosed in violation of the ADRA and this agreement shall not be admissible in any administrative (e.g. EEOC hearing) or judicial (e.g., suit in the U.S. District Court) proceeding related to the issues raised in this dispute resolution proceeding.

d. Alternative Confidentiality Agreement. The parties may agree to use different procedures for disclosure of confidential information by the mediator/neutral. In order to use different procedures, the parties must make changes to section "a," initial the changes, and inform the mediator/neutral of the changes before the dispute resolution proceeding begins. Unless the parties inform the mediator/neutral of a different set of procedures, section "a" will apply.

e. Discovery in a Judicial Proceeding. If the mediator/neutral is asked to disclose confidential information communicated during the dispute resolution proceeding as part of a judicial proceeding, the mediator/neutral will make reasonable efforts to notify the parties (and/or affected nonparty participant) of the request. The parties (and/or affected nonparty participant) have fifteen (15) calendar days to respond to the mediator/neutral and offer to defend the mediator's/neutral's refusal to disclose the confidential information. If the parties (and/or affected nonparty participant) do not reply to the mediator/neutral within 15 calendar days, they have waived their rights to object to disclosure of confidential information by the mediator/neutral.

f. Otherwise Discoverable Information. Information communicated in a dispute resolution proceeding is not protected from disclosure if it is otherwise discoverable.

g. Performing a Resolution Agreement. Sections "a" and "b" will not apply where necessary to comply with a resolution agreement reached as a result of dispute resolution proceeding or to document compliance with such agreement.

h. Research. Information about the dispute resolution proceeding may be gathered for research or educational purposes so long as the parties and specific issues resolved are not identifiable.

i. Dispute with the Mediator/Neutral. Sections "a" and "b" do not prevent the use of an alternative dispute resolution proceeding to resolve a dispute with the mediator/neutral provided that release of confidential information is only released to the extent necessary to resolve the conflict with the mediator/neutral.