In reply refer to: 08

September 14, 2022

VIA: **(Delivery Method)** emailaddress3

firstname lastname

address1\_line1 address1\_line2

address1\_city, govcdm\_address1statepicklist address1\_postalcode

**SUBJECT: Notice of Receipt of “Mixed Case” Discrimination Complaint of firstname lastname, Case No. govcdm\_name, Filed govcdm\_dateformalcomplaintfiled.**

Dear firstname lastname:

1. This letter acknowledges receipt of your client’s discrimination complaint. The official filing date of the complaint is **govcdm\_dateformalcomplaintfiled.**  This date is based on the **(postmark on the envelope in which the complaint was mailed) (date of receipt of the hand-delivered complaint) (date the fax was received)(date email was sent) or (FOR ILLEGIBLE POSTMARK: date of receipt in this office due to the absence of a legible postmark).** This notice will also provide you and your client with written notification of **his/her** rights, as well as the time requirements for exercising those rights.

2. If the complaint is dismissed, you and your client will receive a decision from Office of Resolution Management, Diversity & Inclusion (ORMDI) explaining the reasons for the dismissal and advising of the right to appeal.

3. If the complaint is accepted, it will be investigated by an impartial Investigator under the supervision of the ORMDI. You and complainant will be provided with a copy of the investigative file and be advised, in writing, that the file is being transmitted to the Office of Employment Discrimination Complaint Adjudication (OEDCA), which will issue a final agency decision within 45 calendar days of receipt of the investigative file. OEDCA will advise you and your client of its decision as well as the right to appeal the final agency decision, within **30 calendar days** of receipt, to the U.S. Merit Systems Protection Board (MSPB).

4. If you and complainant do not receive a copy of the report of investigation and a final agency decision on the complaint within 120 calendar days of the date complainant filed the formal complaint of discrimination, you and complainant have the right to file an appeal with the U.S. Merit Systems Protection Board (MSPB) without waiting further. You may not file an appeal before the 121st day, unless you receive a final agency decision on the complaint sooner. **File your appeal at** [**www.mspb.gov**](http://www.mspb.gov) or at the address below to:

**Regional Director**

**Merit Systems Protection Board**

**Address**

**City, state, zip**

**Efile:** [www.mspb.gov](http://www.mspb.gov)

5. You and your client must keep this office advised of any change of address. Failure to do so could lead to dismissal of the complaint. All subsequent actions on the complaint will be delivered to you, with copies to complainant, unless complainant advises us in writing that s/he is no longer represented by you. **You are *strongly encouraged* to use email to submit your correspondence and/or documents to ORMDI.**

6. The EEOC encourages the use of Alternative Dispute Resolution (ADR) to resolve EEO complaints at the lowest possible level. Agencies and complainants can realize many advantages from using ADR. ADR offers the parties the opportunity for an early, informal resolution of disputes in a mutually satisfactory fashion. Please see the Mediation Program Information Sheet enclosed. If your client is interested in using mediation to address the issues raised in this complaint, please contact the ADR Director at [workplaceadr@va.gov](mailto:workplaceadr@va.gov).

Sincerely,

firstname lastname

District Manager

Enclosures: Counselor’s Report

Mediation Program Information Sheet

cc: firstname lastname, emailaddress3

**What Is Mediation?**

Mediation is an informal way for employees to address 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 allows the parties to create their own unique solutions, instead of taking the problem to an outside decision-maker and having that person’s solution imposed on them.

Mediation does not focus on who is right and who is wrong. It focuses on forward thinking and solving the problem. The mediator has no authority to make decisions for the parties. The parties decide what is important to each of them and make decisions based on those factors. The mediator helps the parties communicate, make informed decisions by understanding and listening to each other, and work together to create options and acceptable solutions.

**Why Should I Request Mediation?**

While conflict is a natural part of our daily lives, unresolved disputes may become unproductive and negatively impact the work environment. In these instances, mediation can save time and resources for all involved. Mediation can improve communication and prevent future misunderstandings. Mediation provides an opportunity to discuss sensitive issues and concerns in a private setting. Mediation helps the parties to look realistically at the best and worst case alternatives to resolving the dispute, and when possible, develop mutually satisfactory solutions. By agreeing to mediate, neither party gives up any rights to other processes that may be available to address the dispute. Parties can designate a representative to attend the mediation and provide support and advice during the process.

**How Does Mediation Fit Into The EEO Process?**

An individual who has initiated the EEO complaint process may advise an Office of Resolution Management, Diversity & Inclusion (ORMDI) EEO counselor of his/her interest in mediation as opposed to EEO counseling. The EEO counselor will inquire and find out if the Agency is willing to participate in mediation. If so, the pre-complaint process will be extended for no more than 90 calendar days from the individual’s date of initial contact with the EEO counselor to allow the parties to mediate. If mediation does not resolve the matter, the EEO counselor will advise the individual of his/her right to file a formal EEO complaint.

After a formal EEO complaint has been filed, the complainant may request mediation at any time during the processing of his/her complaint. If the Agency agrees to mediate, the processing of the EEO complaint will be held in abeyance for no more than 90 calendar days from the date of the request to mediate. If the complaint is not resolved in mediation, the EEO complaint process resumes at the point mediation was requested.

**How Do I Begin The Mediation Process?**

The mediation process is initiated by contacting the ORM official assigned to the EEO complaint or ORMDI’s ADR Program Office. If the request does not involve an issue of fraud, waste, abuse, criminal activity, sexual harassment, or removal for cause, the other party involved in the dispute will be contacted to see if (s)he is amenable to mediation. If the other party is willing to mediate the ORMDI ADR Program Office or Facility ADR Coordinator obtains mediators from within VA or another Federal agency, depending on the parties’ preference. In some instances, where a party is a member of the bargaining unit, the union may be notified of and invited to participate in the mediation session.

**What Happens During The Mediation Session?**

Generally, the mediator begins with an introduction, explaining the process, each party’s role, and establishing ground rules. Then, each party is afforded an opportunity to share information about the dispute. The mediator may continue with all parties in a joint session, exploring ways to address the issues raised or the mediator may meet separately with each party in private caucuses. Any information shared only with the mediator will be kept confidential unless permission is given to the mediator to disclose to the other party. If the parties can find common ground and agree to terms, those terms are documented in an agreement.

**What If An Agreement Is Reached?**

A written agreement is drafted and signed by all necessary parties. Once the agreement is signed by all parties, the contract is binding and enforceable. The parties may agree not to disclose the terms of the agreement to those who do not have a need to know; however, the document itself is not confidential and may be disclosed to establish compliance.

**What If An Agreement Is Not Reached?**

If mediation was elected during the EEO complaint process, the process resumes at the point mediation was requested.

**What If I Have More Questions?**

If you would like additional information, please contact the ORMDI ADR Program Office at [workplaceadr@va.gov](mailto:workplaceadr@va.gov).or 800-737-3361, or the ORMDI Case Manager assigned to your complaint.