



National Aeronautics and  
Space Administration

**John C. Stennis Space Center**  
Stennis Space Center, MS  
39529-6000

**SPR 2010.1 Rev. B**  
**April 2010**

## **COMPLIANCE IS MANDATORY**

### **John C. Stennis Space Center Alternative Dispute Resolution**

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<b>SUBJECT: Alternative Dispute Resolution</b>		

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## PREFACE

### P.1 PURPOSE

- a. The purpose of this directive is to prescribe the procedural requirements for Stennis Space Center's (SSC) Alternative Dispute Resolution (ADR) Program for the informal (pre-complaint) stage of the Equal Opportunity (EO) discrimination complaint process.
- b. The SSC ADR Program is a voluntary mediation process designed to resolve allegations of workplace discrimination through the facilitation of a neutral third party.
- c. The ADR Program is intended to provide an impartial and independent forum for the parties to discuss the dispute and develop a realistic assessment of their own as well as the other party's position and alternatives.
- d. SSC's ADR process is designed to ensure fairness for all parties, enforceability of agreements, and adherence to the Equal Employment Opportunity Commission (EEOC) core principles as outlined in EEOC Management Directive (MD) 110. The overall objectives of the ADR Program are to promote open communication between disputing parties, reduce costs, and resolve allegation at the lowest possible organizational level at the earliest opportunity.

### P.2 APPLICABILITY

This directive applies to all NASA SSC employees.

### P.3 AUTHORITY

- a. The Civil Rights Act of 1991, Public Law 102-166.
- b. Administrative Dispute Resolution Act of 1996, as amended; Section 571 – 584.
- c. Equal Employment Opportunity Regulations, as amended, 29 CFR, Part 1614.
- d. NPD 2010.2, Alternative Dispute Resolution.

### P.4 APPLICABLE DOCUMENTS

All citations are assumed to be the latest unless otherwise stated.

- a. Equal Employment Opportunity Regulations, as amended, 29 CFR, Part 1614.
- b. NPD 3713.6P, Delegation of Authority - To Act in Matters Pertaining to Discrimination Complaints Processing Under 29 CFR, Part 1614.
- c. NPR 3713.2, Alternative Dispute Resolution for discrimination Complaints.
- d. NPR 3771.1, NASA Grievance System.

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e. EEOC Equal Employment Opportunity Management Directive, EEOC Management Directive 110,

## **P.5 MEASUREMENT/VERIFICATION**

- a. Annual summaries of the number of attempted uses of ADR, including the type of dispute and the results.
- b. At the conclusion of each mediation, the SSC ODEO will update the NASA Agency-wide complaints tracking system. HQ ODEO shall use this data to monitor trends and determine the extent to which EEO ADR assists in resolving disputes.

## **P.6 CANCELLATION**

SPR 2010.1 Rev. A, Alternative Dispute Resolution dated June, 11, 2007

*Signature on File*

Patrick E. Scheuermann  
Director

## **DISTRIBUTION**

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## **CHAPTER 1. TERMINOLOGY AND RESPONSIBILITIES**

### **1.1 Terminology Definition**

For the purposes of this directive, the following terminology is used. Acronyms are defined in Appendix A.

- a. Alternative Dispute Resolution. A process designed to resolve disputes in a manner that avoids the cost, delay, and unpredictability of the traditional adjudicatory process.
- b. ADR Management Team. ADR Management Team is a team comprised of representatives from the SSC's Equal Opportunity (EO) Office, the Office of the Chief Counsel, and the Office of Human Capital. Other Center officials may be represented on the EEO ADR Team as deemed appropriate
- b. Aggrieved Individual. The individual who brings a workplace issue to the EO Officer for resolution.
- c. Informal Complaint Process. A regulatory procedure for addressing allegations of discrimination prior to filing a formal EEO complaint.
- c. Mediation. A dispute resolution process in which a trained, impartial third party helps two or more parties negotiate a consensual and informed resolution to disputes based on allegations of discrimination. Mediation emphasizes problem solving rather than a determination of fault or adversarial procedures.
- d. Responsible Management Official. The individual who has been identified as the manager directly involved in the workplace dispute or issue.
- e. Settlement Official. Senior Agency representative who has been delegated authority to enter into an agreement that is binding on the Center and Agency

### **1.2 Responsibilities**

#### **1.2.1 EO Counselors**

- a. The EO Counselors shall advise aggrieved persons that, where the Center agrees to offer ADR in a particular case, they may elect to participate in the Center's ADR program or continue in the traditional EO counseling process.
- b. The primary source of SSC EO Counselors shall be a designated contract vendor.

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### 1.2.2 EO Officer

- a. Ensure the fair and efficient functioning of the informal EEO complaints process in cooperation and coordination with HQ ODEO and the Center Director.
- b. Manage, direct, and administer the informal complaint process and advise employees about all aspects of the EEO process, including the overall integrity of the ADR Program.
- c. Identify cases appropriate for mediation in consultation with the SSC's EEO ADR Management Team.
- d. The EO Officer shall monitor the ADR process to ensure compliance with established policies and timeframes as well as timely implementation of the terms of settlement agreements.
- e. The EO Officer shall coordinate the logistics for the mediation sessions; arrange for the Mediator and Settlement Official; maintain a permanent copy of the settlement agreement; ensure appropriate training for ADR Officials in accordance with EEOC's MD 110; and maintain adequate record keeping for annual reporting requirements.

### 1.2.3 Management Representative

- a. SSC's Management Representative is the Associate Director. If the Associate Director is unable to fulfill this role, the Center Director will select an alternate representative.
- b. The Management Representative shall have authority and responsibility to negotiate in good faith and shall have the option of discontinuing ADR after consultation with or on behalf of management, if the representative determines that no acceptable option for resolution can be developed.
- c. The Management Representative shall be, or shall have immediate access to, a person delegated with authority to approve or enter into a settlement agreement binding on the Center and Agency. Hence, the Management Representative and the Settlement Official may be the same individual in certain cases.
- d. No responsible management official directly involved in the case shall serve as the person with settlement authority.

### 1.2.4 Mediator

- a. SSC will obtain neutral mediators from sources external to SSC i.e. other agencies, contract mediators.

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- b. The mediator shall provide guidance and assistance to disputing parties in reaching a resolution agreement that is acceptable, fair, and reasonable.
- c. The Mediator shall convene and preside at mediation sessions, assist the parties in identifying the underlying causes of work-related disputes, and develop options for resolution.
- d. The Mediator shall coordinate in seeking resolutions and crafting the settlement agreement. The Mediator's role is to encourage and assist the parties in deciding whether and how to resolve their disputes and to promote the parties' mutual understanding of each other's positions, interests, and perspectives, in light of their conflict.

### 1.2.5 Settlement Official

- a. The Center Director shall designate a Settlement Official with authority to participate in matters pertaining to pre-complaint discrimination process. The Settlement Official is authorized to engage in resolution discussions, assist in developing, and to sign settlement agreements that are binding on behalf of NASA SSC.
- b. Settlement Officials shall be senior agency representative at the grade GS-15 or above.
- c. While the Settlement Official may be the Management representative, consistent with Section 1.2.3 above, no responsible management official directly involved in the case shall serve as the person with settlement authority. Therefore, where the Management representative is the responsible management official, the Management representative shall not act as the Settlement Official. Nor shall the Settlement Official be the EO Officer.
- d. The Settlement Official shall consult with appropriate line management, the Office of Diversity and Equal Opportunity, the Office of Chief Counsel, and the Office of Human Capital in obtaining a settlement.

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## CHAPTER 2. PROCEDURAL REQUIREMENTS

### 2.1 General

- a. This ADR process addresses disputes covered by Title VII of the Civil Rights Act of 1964, as amended (race, color, sex, religion, national origin, and reprisal); the Age Discrimination in Employment Act (age over-40); the Rehabilitation Act (physical or mental handicap); and the Equal Pay Act (discrimination on the basis of wages based on sex).
- b. The process shall be voluntary for both the aggrieved individuals and the Center. However, the Center determines if the situation is appropriate for ADR. (See Section 3)
- c. Settlements shall be voluntary with no finding of fault on the part of either party.
- d. The aggrieved individual shall be entitled to have a representative during the ADR process.
- e. The total time allocated for the ADR process, including initial counseling, shall not exceed 90 calendar days.
- f. The Center or aggrieved individuals may terminate the ADR process at any time and return to the EEO process.

### 2.2 ADR Counseling Stage and Agreement to Participate

- a. During the informal counseling stage of the process, the EO Officer or the EO Counselor shall inform the aggrieved individual of SSC's voluntary ADR Program and offer the option to participate in the ADR process. Participation in the ADR process shall not in any way diminish the aggrieved individual's rights to pursue claims under applicable laws and regulations, if ADR is unsuccessful.
- b. If the aggrieved individual elects to participate in the mediation process, the individual shall sign the election and agreement to mediate forms (See examples in Appendices B and C).

### 2.3 Effect of ADR Participation on Informal Complaint Regulatory Timeframes

- a. Within 30 days of the date the aggrieved person contacts SSC ODEO's office to request counseling, the EEO Counselor shall conduct the final interview with the aggrieved person unless the aggrieved person agrees in writing to postpone the final interview and extend the counseling period for an additional period of no more than 60 days; and

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- b. The aggrieved person shall be informed in writing by the Counselor, not later than 30 days after contacting the Counselor, of the right to file a discrimination complaint (unless the aggrieved person has agreed to an extension of no more than 60 days).
- c. However, when the aggrieved person chooses to participate in ADR, the informal complaint processing period shall be extended for up to 90 days. If the claim has not been resolved before the 90<sup>th</sup> day, the notice of the right to file a discrimination complaint shall be issued.

## 2.4 Management Participation

Management's decision to participate in ADR requires managers to act in good faith to reach a mutually acceptable resolution. However, the participating Management representative shall have the option of discontinuing ADR after consultation with or on behalf of management if the representative determines that no option for resolution acceptable to NASA can be developed.

## 2.5 Instances When the Center May Consider ADR Inappropriate.

The Center may consider not using ADR in the following circumstances:

- Need for precedent or certainty
- Evidence of bad faith
- Public policy development – openness/record needed
- A case where violence is alleged
- Certain types of harassment, i.e. stalking, sexual
- Options are dictated or limited by law
- Serious power imbalances exist
- Linkage to existing litigation
- If outcome will have significant effect on individuals not directly involved in the dispute
- ADR is an improper substitute for other required action
- Cases involving allegations of criminal activity
- Repeat filers unless all active cases are presented for settlement

## 2.6 Confidentiality

- a. The confidentiality of mediation proceedings is required by EEOC and the ADRA of 1996. Confidentiality is critical to parties' trust and their uninhibited, good faith participation in ADR.
- b. Confidentiality is a critical component of ADR. The confidentiality provisions of the ADRA of 1996, as amended, vary depending on such things as the type of ADR procedure used, the number of parties participating, and the issues involved.

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c. There are exceptions to this rule where disclosure would be permitted or required by law. In order to determine whether information should be disclosed or withheld, NASA officials will seek the advice of the SSC Office of the Chief Counsel before taking action to release or deny information that may be considered “confidential”.

## **2.7 Representation**

a. The EO Officer shall advise aggrieved individuals that they have the right to be represented during EEO ADR, providing the representative does not present a conflict of interest, but that representation is not required for participation in the ADR process.

b. The EO Officer shall ensure (or require the mediator to ensure) that representatives are informed about EEO ADR and that they understand that in EEO ADR parties are encouraged to participate fully and have the right to speak for themselves.

c. The EO Officer shall ensure that the Management representatives are advised that they have the right to, and should consult with, the Office of the General Counsel or the Office of Chief Counsel.

d. If the aggrieved individual is represented by an attorney, the Office of Chief Counsel shall be notified by the EO Officer and will decide whether there shall be Agency legal participation in the mediation.

## **2.8 Reasonable Accommodations During ADR**

a. EO Officer shall ensure that any party with a disability participating in mediation is provided with a reasonable accommodation as needed.

b. EO Officer shall ensure that settlement agreements reached in EEO ADR take into consideration and provide for reasonable accommodations as appropriate, consistent with NASA policy and procedures on the provision of reasonable accommodation.

## **2.9 EEO ADR and Contract Employees**

While NASA’s EEO complaint process is generally unavailable to non-NASA employees, SSC shall reserve the right, at its discretion, to offer ADR in EEO cases involving non-employees and NASA employees. The SSC ADR Management Team shall be consulted about the use of EEO ADR under these circumstances.

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## CHAPTER 3. ADR INFORMAL PROCESS

### 3.1 General

SSC ODEO administers the ADR Program at the informal stage of the EEO complaints process, with oversight from the Agency's Office of Diversity and Equal Opportunity.

### 3.2 Determining Appropriateness of Informal Complaint for Mediation

- a. An individual who has sought EEO counseling shall be advised by the EEO counselor of the option to receive traditional counseling or the opportunity to participate in ADR where SSC agrees to offer ADR in a particular case, and
- b. Center management, in consultation with the EEO Officer, shall determine whether the informal complaint is appropriate for mediation.

### 3.3 Arranging Mediation

- a. While mediation may be productive at a time in the course of an EO dispute, mediation shall be attempted as soon as reasonably possible after the alleged discriminatory event, once an EEO Counselor has been contacted.
- b. The EO Officer shall identify and obtain mediation services and provide the mediator with the names of the parties and provide all parties in mediation with the name of the mediator(s).
- c. The parties shall have an opportunity to request another mediator if the mediator is not acceptable to either party.
- d. The EO Officer shall provide the mediator with all pertinent documents needed to conduct the mediation.
- e. The EO Officer shall serve as the mediator's point of contact for onsite resources, logistical arrangements, coordination of the mediation session(s), etc.

### 3.4 Monitoring the Progress of Mediation

- a. The EO Officer shall, in consultation with the mediator and management, determine whether mediation should be terminated, for example, due to unreasonable delays.
- b. The complainant may also terminate the mediation and return to the EEO process at any time.

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### 3.5 Settlement

- a. The EO Officer or EO Counselor shall brief the Settlement Official on the particulars of the allegation prior to mediation.
- b. If a settlement is reached during the mediation, the mediator shall reduce the terms of the settlement to writing (See sample in Appendix D).
- c. The agreement shall be reviewed by the Chief Counsel's Office for legal sufficiency prior to obtaining all necessary signatures.
- d. The EO Officer shall also review the settlement agreement for conformance with EEO regulations and guidelines.
- e. The settlement agreement shall be signed by the aggrieved individual, his/her representative, the Settlement Official, and other parties as deemed necessary.
- f. In considering resolutions, the Settlement Official and/or Management Representative shall consult with the EO Officer, Chief Counsel, Human Capital Officer, or other officials as appropriate during the course of the settlement negotiations.
- g. SSC shall afford the aggrieved individual a reasonable opportunity to review the draft agreement and consult with a legal or other representative prior to finalizing the agreement.
- h. The following language shall be included in all settlement agreements:

“If (insert aggrieved's name) believes that NASA has not complied with the terms of this agreement, she/he may request that the terms be specifically implemented, or alternatively, that the complaint be reinstated for further processing at the point ceased, in accordance with the procedures set forth in 29 CFR 1614.504. Any such request must be made within thirty (30) calendar days of the date she/he knew or should have known of the noncompliance and must be forwarded to the DIRECTOR, COMPLAINTS MANAGEMENT DIVISION, OFFICE OF DIVERISTY AND EQUAL OPPORTUNINTY, NASA HEADQUARTERS, WASHINGTON, D.C. 20546, with an explanation as to why she/he believes that the agreement has not been carried out.
- i. All settlement agreements involving age discrimination shall contain the appropriate settlement provision required by the Older Workers Benefit Protection Act.
- j. In the event the EO Officer is aware of EEO complaints at other Centers by the same individual, the EO Officer shall inform the Office of Chief Counsel, and the EEO ADR Management Team. Wherever possible, the Centers involved should seek a global settlement.

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k. Agreements reached through ADR and signed by the appropriate parties shall be binding on the Agency and enforceable under current EEOC regulations.

l. The EO Officer shall send a signed and dated copy of the settlement agreement to the Director, HQ ODEO Complaints Management Division within five business days of the execution of the settlement agreement.

m. The EO Officer shall be responsible for maintaining the original copy of the settlement agreement and for providing copies to HQ ODEO and the Office of Chief Counsel.

n. The EO Officer shall be responsible for ensuring that the terms of the ADR settlement agreement are carried out in coordination with appropriate stakeholders.

### 3.6 Non-Resolution

a. In the event that the parties are unable to reach a resolution, the mediator shall end mediation and notify the EO Officer.

b. The aggrieved individual shall be referred back to the EEO Counselor for a final interview and given his/her notice of a right to file a formal EEO complaint, in accordance with 29 CFR Part 1614.

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## CHAPTER 4. ADR FORMAL PROCESS

### 4.1 General

The Agency Office of Diversity and Equal Opportunity administers the Agency EEO ADR program and the formal stage of the EEO complaints process. This chapter lays out the EEO ADR process at the formal stage.

### 4.2 Determining Appropriateness of Complaint for Mediation

- a. During the acceptance/dismissal stage of the complaint process, the Agency ADR Program Manager shall coordinate with SSC management in determining whether to offer mediation at the formal stage of the process.
- b. Center management, in consultation with the EEO Officer, shall determine whether the formal complaint is appropriate for mediation.

### 4.3 Arranging Mediation

- a. HQ ADR Program Manager shall identify a mediator and provide the mediator with the names of the parties to determine whether there is a potential or actual conflict of interest.
- b. HQ ADR Program Manager shall contact all the parties to the mediation and provide them with the name of the mediator(s).
- c. The parties shall have an opportunity to request another mediator if the mediator is not acceptable to either party.
- d. HQ ADR Program Manager shall provide the mediator with all pertinent documents needed to conduct the mediation.
- e. SSC's EO Officer shall serve as the mediator's point of contact for onsite resources, logistical arrangements, coordination of the mediation session(s), etc.

### 4.4 Monitoring the Progress of Mediation

- a. HQ ADR Program Manager, in consultation with SSC EO Officer and the mediator, determine whether mediation should be terminated, for example, due to unreasonable delays or other evidence of lack of good faith by either party.
- b. The complainant may also terminate the mediation and return to the EEO process at any time.

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#### 4.5 Settlement

- a. If settlement is reached through mediation, the terms shall be reduced to writing.
- b. HQ's Office of the General Counsel, the Office of the Chief Counsel, or the Counsel to the Inspector General shall review the agreement for legal sufficiency prior to obtaining all necessary signatures.
- c. The settlement agreement shall be signed by the aggrieved individual, his/her representative, the Settlement Official, and other parties as deemed necessary.
- d. The Management representative shall consult with SSC's EO Officer, the Office of the Chief Counsel, Office of Human Capital Manager, or other site officials, as appropriate, during the course of the settlement negotiations.
- e. SSC EO Officer shall send a signed and dated copy of the settlement agreement to the Director, Complaints Management Division, HQ ODEO within five business days of the execution of the settlement agreement.
- f. The following language shall be included in all settlement agreements:  
  

“If (insert aggrieve's name) believes that NASA has not complied with the terms of this agreement, she/he may request that the terms be specifically implemented, or alternatively, that the complaint be reinstated for further processing at the point ceased, in accordance with the procedures set forth in 29 CFR 1614.504. Any such request must be made within thirty (30) calendar days of the date she/he knew or should have known of the noncompliance and must be forwarded to the DIRECTOR, COMPLAINTS MANAGEMENT DIVISION, OFFICE OF DIVERISTY AND EQUAL OPPORTUNINTY, NASA HEADQUARTERS, WASHINGTON, D.C. 20546, with an explanation as to why she/he believes that the agreement has not been carried out.
- g. All settlement agreements involving age discrimination shall contain the appropriate settlement provision required by the Older Workers Benefit Protection Act.

#### 4.6 Non-Resolution

- a. In the event that the parties are unable to reach a resolution, the mediator shall end mediation and notify SSC's EO Officer.
- b. SSC's EO Officer shall advise the Agency ADR Program Manager that the mediation effort did not result in settlement.

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c. The complaint shall resume through the regular complaint process at the point where processing ceased.

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## APPENDIX A – ACRONYMS

ADR	Alternative Dispute Resolution
ADRA	Administrative Dispute Resolution Act of 1996
CFR	Code of Federal Regulations
EO	Equal Opportunity
EEOC	Equal Employment Opportunity Commission
EEO	Equal Employment Opportunity
HQ	NASA Headquarters
MD	Management Directive
NPD	NASA Policy Directive
NODIS	NASA Online Directives Information System
NPR	NASA Procedural Requirements (directive)
ODEO	Office of Diversity and Equal Opportunity
SPR	Stennis Procedural Requirements (directive)
SSC	Stennis Space Center
TechDoc	Stennis Technical Documentation System

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**APPENDIX B – ADR PROGRAM ELECTION STATEMENT SAMPLE**

National Aeronautics and Space Administration  
JOHN C. STENNIS SPACE CENTER

Election of Mediation

To: (Complainant's name)

Date:

From:

Subject: Opportunity to Elect Mediation

During the initial counseling session with the EEO counselor, you were advised that you have the option of choosing to participate in mediation to attempt to resolve your complaint of discrimination. Many employees and applicants for employment find mediation to be a good way to develop an acceptable outcome that will resolve their complaints.

Your written consent is required for participation in the voluntary Alternative Dispute Resolution (ADR) Program. If you do not choose mediation, your complaint will continue in the regular informal process. If you do choose mediation and are unable to reach a resolution you find acceptable within the ninety-day (90) period allotted to the process, you will have lost no rights - your complaint will return to regular processing just as if mediation had not occurred.

The ADR process is limited to 90 days. If your complaint is not resolved through this process, it may be processed in accordance with the provisions of 29 CFR, Part 1614.

**Yes, I want to participate in mediation of my EEO complaint.**

**No, I do not want to participate in mediation.**

\_\_\_\_\_  
Aggrieved Individual's Signature

\_\_\_\_\_  
Date

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**APPENDIX C – AGREEMENT TO MEDIATE STATEMENT SAMPLE**

**Agreement to Mediate**

This agreement concerns the EEO Complaint of \_\_\_\_\_, NASA Docket No. \_\_\_\_\_. This is an Agreement by the undersigned parties to submit to mediation certain issues arising from an informal complaint at the John C. Stennis Space Center. Both parties understand that mediation is a voluntary process, which may be terminated at any time within the designated 90-day period. In the event that a participant withdraws, the confidentiality provisions of this agreement remain in effect.

Consistent with 5 U.S.C. Section 571-584, we understand that mediation is a confidential process, and that the Mediator will not discuss the proceedings with anyone who was not present at the mediation, nor will the Mediator testify on behalf of any participant in the mediation or submit any type of report on the substance of this mediation, except as provided by law.

We agree not to discuss the mediation except with those who may need certain information to assist in implementing any resulting agreement.

The parties agree to make a good faith effort to negotiate with each other with the aid of the Mediator and to make full disclosure of all relevant information.

The parties understand that the Mediator is not acting as an advocate or attorney for either side. The aggrieved individual may be represented by counsel, if desired, and may allow his/her counsel to review this Agreement prior to signing it. It is agreed that any of the parties involved have the discretion to terminate mediation at any time if it is believed that a resolution cannot be reached.

If a settlement is reached, the agreement shall be reduced to writing and when signed shall be binding upon the parties. If a settlement is not reached, the matter in dispute will proceed as if mediation had not occurred.

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

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

(signature/date lines for all persons attending the mediation)

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**APPENDIX D – SETTLEMENT AGREEMENT AT THE INFORMAL STAGE SAMPLE**

Settlement Agreement

(Some of the paragraphs given below may not be necessary or appropriate for all settlements. Paragraphs 6, 7, 8, and 10 are required by the Older Workers Benefit Protection Act when the Aggrieved Individual is 40 years old or older. The last sentence of paragraph 13 and paragraph 14 apply only when the Aggrieved Individual alleges discrimination under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Age Discrimination in Employment Act, the Rehabilitation Act, or the Civil Rights Act of 1991. )

1. This Settlement Agreement (hereinafter "Agreement") is entered into by and between XXXXXXXXXX (hereinafter "Aggrieved Individual") and the National Aeronautics and Space Administration (hereinafter "Agency" or "NASA") to make full and final settlement of the matters raised in Aggrieved Individual's informal EO complaint of \_\_\_\_\_ NASA Docket Number\_\_\_\_\_.

2. To resolve the matters in dispute without further administrative processes, litigation, expense, and delay, the Aggrieved Individual and the Agency agree as follows:  
(Spell out the terms of agreement)

- a.
- b.
- c.

3. This Agreement shall not constitute an admission of liability or fault on the part of NASA or its officers or employees.

4. This Agreement may be used as evidence in a subsequent proceeding in which either of the parties allege a material breach of this Agreement.

5. Aggrieved Individual is hereby notified that he/she has at least 21 days from the date of receipt of this Agreement to consider the terms and conditions of this Agreement and sign it.

6. Aggrieved Individual is hereby advised to consult with an attorney prior to executing this Agreement. In the event that Aggrieved Individual has retained counsel, Aggrieved Individual acknowledges that his/her attorney has reviewed and explained the provisions of this Agreement to him/her and that the Agency has provided sufficient time for this purpose.

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7. By executing this Agreement, Aggrieved Individual acknowledges that he/she has knowingly and voluntarily waived rights or claims under the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621, et seq., in exchange for consideration in addition to anything of value to which Aggrieved Individual is already entitled.

8. By executing this Agreement, Aggrieved Individual acknowledges that he/she has entered into this Agreement voluntarily and that the Agency has not imposed any undue hardship, duress, or coercion in connection with the execution of this document.

9. Aggrieved Individual is hereby notified that the terms and conditions of this Agreement will become binding and enforceable 7 calendar days following the last signature date of this Agreement. Aggrieved Individual may revoke this Agreement in writing at any time prior to the expiration of this 7-day period.

10. This Agreement represents and expresses the entire agreement between NASA and Aggrieved Individual resolving all matters arising from EEOC complaints against the Agency and fully supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter hereof. If other promises, oral or written, have been made, they are not binding. This document cannot be altered, modified, withdrawn, rescinded, or supplemented in any manner after the date on which it becomes effective pursuant to the terms contained in paragraph 10 of this Agreement, unless mutually agreed in writing by all parties.

11. This Agreement shall be binding upon the Aggrieved Individual, as well as the Aggrieved Individual's heirs, assigns, representatives, proxies, guardians, or any other person or entity acting on behalf of, or at the behest of, Aggrieved Individual's heirs, assigns, representatives, proxies, or guardians.

12. The Aggrieved Individual expressly agrees not to use this Agreement and not to permit any other person to use this Agreement in any judicial or administrative proceeding as evidence of or to attempt to prove the existence of, discrimination/reprisal or other adverse action or prohibited personnel practice.

13. If the Aggrieved Individual believes that NASA has not complied with the terms of this Agreement, the Aggrieved Individual may request that the terms be specifically implemented, or alternatively, that the complaints be reinstated for further processing at the point processing closed, in accordance with the procedures set forth in 29 CFR § 1614.504. Any such request must be made within 30 calendar days of the date the Aggrieved Individual knew or should have known of the noncompliance and must be forwarded to the ASSOCIATE ADMINISTRATOR FOR THE OFFICE OF DIVERSITY and EQUAL OPPORTUNITY, CODE E, NASA HEADQUARTERS, WASHINGTON, DC 20546, with an explanation as to why he/she believes that the Agreement has not been carried out.

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14. Each of the respective rights and obligations of the parties hereunder shall be deemed independent and may be enforced independently, irrespective of any other rights and obligations set forth herein.

In witness whereof, the Aggrieved Individual hereby executes this Agreement, acknowledging that its terms and conditions have been fully understood, that an adequate period of time has been afforded to allow consideration of said terms and conditions, and that an opportunity has been afforded to seek legal counsel and counsel has either been sought or knowingly declined by the Aggrieved Individual.

\_\_\_\_\_

Aggrieved Individual

\_\_\_\_\_

Date

\_\_\_\_\_

Aggrieved Individual's Representative

\_\_\_\_\_

Date

\_\_\_\_\_

ODEO Officer

\_\_\_\_\_

Date

\_\_\_\_\_

Settlement Official

\_\_\_\_\_

Date

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**APPENDIX E – LANGUAGE TO INCLUDE IN SETTLEMENT AGREEMENTS FOR CASES INVOLVING AGE DISCRIMINATION**

Option A:

Complainant hereby acknowledges that the Agency has provided Complainant a period of time not less than 21 days to consider the terms and conditions contained in this Agreement prior to signing the Agreement.

**OR**

Option B:

Complainant hereby acknowledges that he/she was fully informed by the Agency of rights under the Age discrimination in Employment Act and the Older Workers Benefit Protection Act, including the right to a period of time not less than 21 days to consider the terms and conditions contained in this Agreement prior to signing. By signing this Agreement, complainant acknowledges that he/she has knowingly and voluntarily waived rights or claims under the laws above, in exchange for consideration. Complainant affirms that this decision was made knowingly, voluntarily and without any undue hardship, duress, or coercion by the Agency or its employees or representatives.

**In all cases:**

Complainant acknowledges that he/she was advised of the right to and advisability of consulting with an attorney prior to signing this agreement. If Complainant had already retained counsel, Complainant acknowledges that his/her attorney has reviewed and explained the provisions of this Agreement to him/her and that the Agency provided sufficient time for this purpose.

Complainant is hereby notified that the terms and conditions contained herein will become binding and enforceable seven (7) calendar days following the date of signing of this Agreement. At any time prior to expiration of this seven-day period, Complainant may revoke this Settlement Agreement for any reason.

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**APPENDIX F – EVALUATION TO BE DISTRIBUTED AT THE END OF MEDIATION**

*(Copies of the following evaluation form should be distributed to each person who attended as a party or representative in mediation, along with an envelope in which to return the evaluation form. The mediator should be told to gather the sealed envelopes and submit them to the ADR Program Director. Generally, the parties should be asked to complete the survey when mediation ends but before they leave the mediation site; however, a party who wishes to submit the form later may do so (provide an envelope addressed to the ADR Program Director)).*

**MEDIATION PARTICIPANT SURVEY**

To help NASA to continue to improve its ADR program and provide outstanding customer service, we would appreciate your taking a few minutes to answer the following questions. There is room at the end for comments, if you like. The information below is confidential and will be used solely for program evaluation purposes. It is not necessary to include your name unless you wish to do so.

In this mediation, I was the:

- Aggrieved Complainant
- Management representative
- A representative
- Other

Center where mediation occurred: \_\_\_\_\_.

At which phase of the process is this mediation occurring?

- Informal Stage
- Formal Complaint stage

The Process

1. Prior to mediation:

a. The opportunity for mediation was:

- Fully explained to me
- Adequately explained to me
- Poorly explained to me
- Not explained at all to me

b. The mediation process was:

- Fully explained to me

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- Adequately explained to me
- Poorly explained to me
- Not explained at all to me

2. The mediation was scheduled within:
- 5-15 days of the initial complaint
  - 16-25 days of the initial complaint
  - 26-35 days of the initial complaint
  - 36 or more days of the initial complaint

3. The mediator explained the mediation process to me in a way that allowed me to fully understand the process.
- Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree

4. I had a full opportunity to present my views.
- Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree

5. If I had another dispute or problem like this one, I would want to try mediation to resolve it.
- Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree

6. I would recommend mediation to others at the Center.
- Strongly Agree
  - Agree
  - Disagree
  - Strongly Disagree

If you disagree, please provide more information.

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The Mediator

Name(s) of mediator(s): \_\_\_\_\_

7a. The mediator listened well

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

b. The mediator treated everyone fairly.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

8. The mediator remained neutral and impartial.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

9. The mediator worked with both sides to help reach a fair resolution.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

10. I was treated with respect during the mediation.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

The Result

11. Please circle the appropriate answer:

- a. Mediation is completed and we reached a resolution.
- b. Mediation is still open or continued.
- c. Mediation is completed, but we did not reach a resolution.

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12. If you reached agreement, do you believe it is as fair and realistic as reasonably possible?

- Yes  
 No

If no, why not?

13. If no agreement was reached, do you believe the mediation was still helpful?

- Very Helpful  
 Somewhat Helpful  
 Slightly Helpful  
 Not Helpful

14. Do you have any comments that might help us improve this program?

Name and contact information (voluntary):

Thank you for taking your time to assist us in trying to continually improve our program.

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**APPENDIX G – EVALUATION FOR COMPLETION BY MEDIATOR**

For the case you just completed, please answer the following questions (explain your answers if needed in the space under each question):

a. After you were assigned this case, were you promptly given adequate information by intake personnel on:

- Nature of case and issues? - yes - no
- Parties' & representatives' contact info? - yes - no
- Any special needs or issues? y e s - n o

Comments:

b. Did you find intake personnel prompt and helpful regarding:

- Arranging place/space for mediation? y e s - no
- Providing forms, copying, and administrative help? y e s - no
- Providing help/suggestions for travel and accommodations? y e s -no

Comments:

c. Did you find that the parties adequately understood their ADR options and had at least a preliminary understanding of what ADR was about? y e s - no

Comments:

d. Please provide any other comments and suggestions for improvement in the ADR program:

e. Name and contact information.

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**APPENDIX H – REPORTING ON COMPLIANCE WITH EEO SETTLEMENT AGREEMENT**

**OFFICE OF DIVERSITY AND EQUAL OPPORTUNITY**

**INFORMAL**

**Name:**

**Case #:**

**Full Compliance (on all terms) ( )**

**Partial Compliance ( )**

**Identify terms and state reason(s) for partiality:**

**Anticipated date for full compliance:**

**Noncompliance ( )**

**Reasons for noncompliance:**

**\*Attach report if necessary**