

Thank you for agreeing to participate in the DOE Headquarters Mediation Program. Here is some information to assist you in preparing for the mediation process.

1. Mediation Process. Mediation is a type of an Alternative Dispute Resolution (ADR) technique to resolve workplace disputes. A neutral third party or mediator assists the parties in discussing their concerns in a productive manner. Mediation is available any time during the EEO administrative process at no cost to you. Its benefits include providing you a greater degree of control to resolve your dispute as compared to traditional litigation and adjudication in addition to the potential cost-savings and more timely outcomes it offers.
2. Voluntary. Mediation is voluntary for all parties. **You may withdraw from the mediation process at any time for any reason.**
3. Confidentiality. The mediation is confidential and therefore the parties may not discuss the substance of the mediation with anyone unless agreed to by both parties or by court order or applicable law. Each participant will sign a “Mediation Confidentiality Agreement” at the mediation.
4. Mediator. The mediator is an employee of DOE’s Office of Hearings and Appeals or another federal agency who is a qualified and experienced mediator. The mediator is impartial and independent who has no stake in the outcome of the mediation. He/she will not provide any legal advice nor act on either party’s behalf.
5. No Binding Authority. The mediator does not have the authority to bind DOE or you to anything. The choice to continue in the mediation process or whether or not to reach a settlement agreement resides solely within you or DOE.
6. Pre-Mediation Teleconference. Once a mediator is assigned, the mediator will typically hold a joint pre-mediation teleconference with the parties. Its purpose is to answer any questions about the process and address any preliminary matters such as clarifying the issues in dispute or considering any special accommodations that may be needed at the mediation.
7. Program’s Timeliness Expectations. The mediation process is expected to end within 30 days after a mediator has been assigned. The mediation session is expected to be no longer than one day except for unusual circumstances with the mutual agreement of both parties.
8. Scheduling a Mediation. Mediations are usually scheduled to begin in the morning. If other employees in your organization have access to your electronic calendar, you may want to schedule the mediation as a “Meeting” rather than as a “Mediation” if you prefer others not to know that you are in a mediation.
9. Mediation Participants. Either party may be accompanied by any person of their choosing so long as the other party does not object. You may bring a friend, colleague, an NTEU representative, or an attorney with you to the mediation. Also, you may bring an Employee Assistance Program counselor as a support person for you and does not act as your representative. If either party objects, the objecting party may withdraw from mediation unless the parties can reach an agreement on who may attend the mediation.

10. Mediation Session. The mediation normally begins by the mediator introducing him/herself and make brief opening remarks about the process. The mediator will likely provide an opportunity to both parties to make a brief opening statement. It is typically a good idea to make an opening statement and therefore you should consider drafting one in advance of the mediation session. It will be helpful for you to review the mediation preparation questions in OCPR-HQ-003 – Mediation Process.
11. Filing Deadlines. **Participation in mediation does not extend, suspend or alter the filing requirements of any type of complaint at DOE, other government agency or court.** Mediation does NOT forestall established timeframes within the EEO or grievance process, nor does it constitute legal notice to DOE or official notice to initiate those processes.
12. Mediation Terms Worksheet. If you reach a common understanding with the DOE management representative on how to resolve your dispute with DOE, the terms of your understanding should be documented in the Mediation Terms Worksheet that the mediator will provide you. It is your and DOE management representative's responsibility to author the terms of the Mediation Terms Worksheet. Although the mediator may assist the parties to overcome a drafting impasse, the mediator will not draft any of the terms although he/she may act as the scribe.
13. Settlement Agreement. You should not expect to sign a final settlement agreement at the end of the mediation. If you and the DOE management representative draft a Mediation Terms Worksheet, the mediator will provide that document to the HQ Mediation Program Manager to be incorporated in a final settlement agreement that the parties will review before signing it at a later date. The Offices of General Counsel, Civil Rights and Human Capital Management review settlement agreements for legal sufficiency before a final settlement agreement is signed by the parties.
14. NTEU and Administrative Grievances. For NTEU grievance guidelines and mediation, see Article 11 of the 2013 Collective Bargaining Agreement between DOE Headquarters and the NTEU; and, Administrative Grievance Policy and Procedures, see DOE Order 342.1, dated 2/2/06, Section I-3, Mediation.
15. OCPR Website - The Office of Conflict Prevention and Resolution's webpage includes additional information which will help you prepare for mediation. Go to www.energy.gov/oha/services/alternative-dispute-resolution/hq-mediation-program-workplace-conflicts, and then click "Mediation Process." You may also want to view the mediation videos on the website.
16. DOE Settlement Official. For EEO disputes, DOE will make accessible an individual with settlement authority, and that no responsible management official directly involved in the case will serve as the person with settlement authority.