



Federal Communications Commission

Office of Workplace Diversity

Notice of Other Filing Requirements

Participation in the Federal Communications Commission's (FCC) ADR Program does not suspend the time frames for employees seeking redress pursuant to other forums. Accordingly, to assist employees in understanding their rights and obligations regarding other forums, the Special Counsel for ADR will provide employees with a written notice of the filing requirements for the other forums and their rights and responsibilities under those processes. The employee must sign a copy of this notice upon receipt and return it to the Special Counsel for ADR. The notice covers the following processes:

1. Equal Employment Opportunity (EEO) Process

Applicants, employees, or former employees who believe that they have been discriminated against on the basis of their race, color, religion, national origin, gender, age (40 and over), disability, genetic information or in reprisal for opposing or participating in protected EEO activity must contact an EEO Counselor within 45 days of the date of the alleged discrimination. In order to avoid confusion and help ensure that participants do not miss the deadline for contacting an EEO Counselor, participants will be advised that participating in ADR **does not** satisfy the requirement to contact an EEO Counselor within 45 days of the date of the alleged discrimination. Accordingly, ADR participants wishing to pursue the EEO complaint process must initiate contact with an EEO Counselor within 45 days of the date of the alleged discrimination in addition to any actions taken under the ADR program.

a. Person Initiates ADR Process First

ADR participants who initiate the ADR process first may file an EEO complaint by contacting an EEO Counselor or the Office of Workplace Diversity (OWD) within 45 days of the date of the alleged discrimination. Failure to contact an EEO Counselor or the OWD within 45 days may result in the dismissal of the ADR participant's EEO complaint pursuant to Section 1614.107(a)(2) of the EEOC's Rules, 29 C.F.R. § 1614.107(a)(2).

b. Person Initiates EEO Process First

ADR participants who initiate the EEO process first and request ADR during the Informal Complaint phase will be advised by the EEO Program Manager that the informal counseling period will be extended to 90 days. Additionally, the EEO Program Manager will refer the matter to the Special Counsel for ADR to initiate the ADR process. In the event that the matter is not resolved in the mediation process within that time period, EEO Counselors will give Complainants a final interview and inform Complainants of their right to file a formal complaint.

ADR participants who seek to participate in ADR after filing a formal EEO complaint may opt to participate in the ADR program by notifying the EEO Program Manager of their decision. The EEO Program Manager will refer the EEO Complainants to the ADR Special Counsel. The time period for completing an ongoing investigation of an EEO complaint may be extended up to an additional 90 days in order to allow the parties to participate in the ADR Program. *See* Section 1614.108(e) of the EEOC's Rules, 29 C.F.R. § 1614.108(e).

2. Administrative Grievance Process

FCC Personnel Manual, Chapter 771, Agency Grievance Procedure, permits non-bargaining unit employees to file grievances on matters affecting their terms and conditions of employment. Seeking assistance through the ADR process **does not** suspend the time frames for filing a grievance under the administrative grievance procedures. Employees should consult FCC Personnel Manual, Chapter 771, Agency Grievance Procedure, for additional information regarding the procedures and timing for filing an administrative grievance.

3. Negotiated Grievance Process

Article 38 of the Basic Negotiated Agreement between the FCC and the NTEU permits bargaining unit employees to file grievances on matters affecting their terms and conditions of employment. Seeking assistance through the ADR process **does not** suspend the time frames for filing a grievance under the Basic Negotiated Agreement. Employees should contact their NTEU representative for additional information regarding the filing of a grievance.

4. Unfair Labor Practices

An employee eligible to file an unfair labor practices (ULP) charge with the Federal Labor Relations Authority (FLRA) may attempt to resolve the dispute through the ADR Program prior to filing a ULP. However, participation in the ADR Program **does not** suspend the time frames for filing a ULP under the FLRA regulations. To preserve their rights under the FLRA, employees must file a ULP within six months of the alleged incident with the FLRA.

5. Merit Systems Protection Board (MSPB) Process

Use of the ADR Program to resolve a dispute **does not** automatically suspend the 30-day deadline for filing an appeal with the MSPB. However, individuals may participate in ADR prior to the expiration of that deadline. If the parties wish to continue ADR efforts beyond the 30-day deadline for filing an appeal, they must submit a written notice to the MSPB prior to the timely filing of an appeal, which explains that the parties are engaged in ADR efforts. The MSPB will then extend the time limit for filing an appeal by 30 days - for a total of 60 days. *See* 5 C.F.R. §§ 1201.22(b)(1)&(2).

6. FCC Anti-Harassment Policy and Procedures

The FCC's Anti-Harassment Policy and Procedures outlines the responsibilities for compliance and establishes procedures for ensuring that appropriate FCC officials are notified of harassment in the workplace and have the opportunity to prevent and correct such conduct before it rises to the level of illegality. The conduct covered is broader than the legal definition of unlawful harassment and includes hostile or abusive conduct based on race, color, religion, sex (including pregnancy, sexual stereotyping, gender identity or sexual orientation), national origin, age (40 and over), disability, retaliation, or genetic information, marital status, parental status, or political affiliation, even if such conduct does not rise to the level of illegality. An employee who believes he or she has been subjected to, or witnessed, harassment, or hostile or abusive behavior based on any of the protected characteristics covered under this policy should immediately report the incident to his or her manager or supervisor, or to the manager or supervisor of the employee who engaged in the inappropriate conduct and document the incident using FCC Anti-Harassment Intake Form. Employees should report harassment as soon as it happens and are encouraged to do so as promptly as possible and generally no later than 45 days from the date of the incident. Seeking assistance through the ADR process **does not** suspend the time frame for reporting

