

National Aeronautics and Space Administration



Goddard Space Flight Center's

# Workplace Dispute Resolution Processes

*A Guide for  
Employees*



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The pictures in this pamphlet are for illustrative purposes only. A special thank you is extended to the employees who volunteered to have their pictures taken for this purpose.

## INTRODUCTION

### *Options for Resolving Workplace Disputes*

All organizations experience conflict. We respond to conflict using one or more of the many choices available to us. Some choices may lead to negative outcomes such as hurt feelings or broken relationships while others may lead to frustration. We can also choose to respond to disputes in a way that leads to more positive outcomes. While many of us make a strong effort to reach a positive resolution to conflict, we often do not understand or know how to achieve one. In some situations, we may not believe that a positive outcome is even possible.

Usually, when we experience conflict in our daily lives, we are able to work things out by ourselves, quickly and satisfactorily. However, there may be times when we need to obtain assistance to reach a positive solution. The Federal Government and NASA, Goddard Space Flight Center offer a number of processes to assist us when our own efforts to resolve a workplace issue or concern have not been successful.

This Guide is intended to help you choose an option best suited to your individual situation. Both informal and formal avenues are available. One relatively new informal option—ADR—leaves the resolution of conflict to the individuals who have the conflict. An interest-based process, ADR offers GSFC employees an opportunity to improve communications, build relationships, and create a better understanding of the other person's perspective. Having ADR available before, during, or in place of the formal dispute resolution processes, provides employees an additional choice for addressing their concerns.

Formal avenues such as the grievance and EEO complaint processes are also available to employees. Similar to the court

system, these processes are “rights-based” with a decision-maker determining the final outcome. Each method has its own procedures, timeframes, and decision-making process. The demands on an employee’s time and emotions vary with each process.

**When you face a workplace dispute that you have been unable to resolve yourself, this guide may help you determine the best available dispute resolution process for your situation.** Protections against reprisal exist for employees who elect to pursue these dispute resolution options. This Guide is informational only, and does not replace or take precedence over any laws, regulations or policies that govern the listed processes. Some of the options listed are currently offered to GSFC Civil Servants only.

By addressing concerns early and choosing an appropriate process, you can increase the chances of resolving your situation in the most timely and effective manner.



## INFORMAL APPROACHES

### Alternative Dispute Resolution (ADR)

- *What is ADR?*

ADR is a voluntary alternative to, and not a replacement for, formal dispute resolution systems such as grievances, discrimination complaints, and appeals. Unlike more formal processes, where management and employees are placed in a contest to determine a “winner” and a “loser,” ADR provides an arena where individuals may explore all the matters related to workplace concerns and develop solutions that are acceptable to all parties. In ADR, participants can generally arrive at solutions much more quickly than decisions can be made in the formal processes, and resolutions are designed by the participants rather than by an external party.

ADR includes a variety of approaches and techniques for early intervention and dispute resolution that include mediation, facilitated negotiation, facilitation, ombudsman, and others. Each ADR technique provides a non-adversarial setting where employees can openly discuss issues and examine possible solutions with the assistance of a neutral third party.

- *Who may use ADR?*

Any civil servant employee, including high-level managers, temporary appointees, professionals, technical support and administrative staff, may ask to participate in ADR and may request that other involved individuals participate. ADR is appropriate for interpersonal disputes, possible disciplinary- or performance-related actions, as well as concerns about violations of regulations or discrimination. ADR is available to any civil servant who is experiencing a dispute with a co-worker, or with a supervisor, and may be requested whether or not a complaint, grievance, or personnel action has been initiated over the subject. Employees maintain the right to

pursue the more formal processes as long as they meet the required deadlines.

- ***How does ADR work?***

GSFC encourages all employees to pursue available ADR options at the earliest possible time in order to minimize the disruptions and stress that often accompany conflict. Any employee can start an ADR process by contacting the Center's ADR Program Manager. If an employee is already in one of the formal dispute resolution systems, an opportunity to participate in ADR may be offered as a part of that system.

Although there are a number of different ADR techniques, mediation is the foundation of the GSFC ADR Program. In mediation, a trained neutral mediator usually begins the session with all the participants present by explaining the procedures and ground rules that will be used. The participants are then invited to present the issues important to them in their own words. They may present facts and evidence, question each other, voice their concerns, or say what they are hoping for, while the mediator provides structure, balance, and fairness throughout the discussion. The mediator may meet separately with each participant to discuss matters further and to develop possible options for resolution. Throughout the mediation process, the participants listen to each other's concerns and try to focus on the kind of future they can build together. Although reaching mutually acceptable resolution between the parties is the primary goal, mediation is often considered successful if a better understanding or relationship between the participants is achieved.

In addition to mediation, other ADR techniques such as facilitation and facilitated negotiation are available at GSFC. All of these processes are confidential in nature and emphasize voluntariness and neutrality.

- ***How do I learn more about ADR?***

Anyone who has questions about ADR or wishes to initiate an ADR process should contact Elly Cleaver, ADR Program Manager, at (301) 286-0482. Additional information about ADR, may be found on the GSFC ADR Program web site <http://adr.gsfc.nasa.gov>.

## **Employee Assistance Program (EAP)**

- ***What is the Employee Assistance Program?***

The EAP is a confidential, professional assessment and short-term counseling service that is designed to address personal and workplace concerns. The EAP also offers consultation services to supervisors and managers regarding personnel issues. These services are offered free of charge.

- ***Who may use the Employee Assistance Program?***

EAP services are available for NASA Civil Servants and their family members.

- ***How does the Employee Assistance Program work?***

The EAP provides immediate assistance to employees and when appropriate their immediate family members. Professional counselors are available via telephone 24 hours a day, 7 days a week. EAP professionals have office hours between 7:30 a.m. to 4:30 p.m., Monday through Friday. The office is conveniently located in the Health Unit (Building 97). Once an EAP professional has been contacted, he or she will offer the employee a confidential appointment to discuss work and family concerns. The EAP professional assists employees to accurately assess the problem, provide short-term counseling or problem resolution when appropriate, connect employees to community resources when necessary, and follow up with employees to ensure needs are met.

- *How do I learn more about the Employee Assistance Program?*

Employees of NASA-GSFC interested in learning more about the EAP should contact an EAP professional directly at 301-286-4600 or 800-247-3054, or visit <http://www.cope-inc.com>.

### Office Of The Ombuds

NASA has implemented an Agency-wide Ombuds Program to provide an additional, confidential, informal channel to communicate critical issues and concerns that could impact safety, organizational performance or mission success. The Program is intended to supplement, not replace, other available communication options. The NASA Ombuds are empowered to listen to and act on employee concerns related to safety, organizational performance and mission success, and have the authority to raise concerns directly with their Center Director. The Ombuds serves as a safety valve when employees feel regular channels for raising issues and concerns are not effectively working. Ombuds have been assigned at each NASA Center and at NASA Headquarters. *You will hear more about the Ombuds Program in the near future. (Note: this Ombuds Program is separate from the Center Ombudsman for Procurement.)*



## FORMAL PROCEDURES

### Administrative Grievances

- *What is the administrative grievance process?*

The administrative grievance process provides Federal employees an opportunity to raise concerns about work issues and to notify management of employment situations that may violate regulations. Employees who believe that a violation of a personnel regulation has caused them harm may choose to file an administrative grievance. Management uses the process to examine the claims and provide a formal response, which can range from completely correcting the situation to reinforcing the reasons for the challenged action. Administrative grievances can appropriately address a wide variety of potential employment situations, but are not applicable in every matter, such as complaints of discrimination.

- *Who may file an administrative grievance?*

Civil Servants who are not included in a recognized bargaining unit (see section entitled “Negotiated Grievances”) may file an administrative grievance. Before attempting to file an administrative grievance, employees should first determine if they are included in a bargaining unit. The grievance terminates with a final decision by the deciding official.

- *How does the administrative grievance process work?*

The employee initially presents an informal grievance to his/her supervisor orally or in writing, within 15 calendar days of either the action that generated the grievance or the day when the employee became aware of the action. The supervisor handles the grievance personally or directs it to the appropriate official. The grievant should receive a response that either clarifies the matter or provides corrective or other appropriate action to the grievant. If the grievant

is not satisfied with the response, she or he may pursue the matter further to the next higher level in management. The grievance terminates with a final decision by the Center's Director. The employee may request a review of the matter by an impartial grievance examiner prior to the Center Director's decision.

The grievant or any management official may ask to participate in ADR during any stage of the process prior to the Center Director's decision.

- *How do I learn more about the administrative grievance process?*

Federal employees who are interested in learning more about the administrative grievance process should contact the Center's Human Resources office. Employees should ask for a copy of the Center's administrative grievance procedures or may access information on the following: [http://ohr.gsfc.nasa.gov/employee\\_relations/home.htm](http://ohr.gsfc.nasa.gov/employee_relations/home.htm).

## Negotiated Grievances

- *What is the negotiated grievance procedure?*

The negotiated grievance procedure provides employees an opportunity to raise any matter of concern or dissatisfaction, which is subject to the control of management. Employees who believe that a violation of personnel regulations or provisions of their collective bargaining agreement has caused them harm may choose to file a grievance through this procedure.

While the Negotiated Grievance Procedure addresses a wide variety of issues, it is not applicable in all matters. Each collective bargaining agreement contains provisions describing in detail what concerns may be addressed through the Negotiated Grievance Procedure and how the grievance procedure works for that individual bargaining unit.

- *Who may file a negotiated grievance?*

Only Bargaining Unit employees may use the Negotiated Grievance Procedure to file a grievance. A bargaining unit is a group of employees who are represented by a labor union.

- *How does the negotiated grievance procedure work?*

An employee, or union on the employee's behalf, must file a grievance in the manner required by the collective bargaining agreement. In most cases the grievance is taken up with the employee's immediate supervisor or other management official or staff office having the authority to deal with the issue. The management official considers and examines the concerns the employee has raised and provides a written decision on the matter(s) in question. If the grievant is not satisfied with the decision, she or he can then raise the issue(s) with the next higher official. The number of such "steps" varies from bargaining unit to bargaining unit. Decisions can range from finding for the grievant with appropriate remedies to a denial of the grievance. If the grievant is not satisfied with the highest-level decision, in some instances the matter may go to an external, neutral "arbitrator" for a binding decision. Employees who file negotiated grievances through the Negotiated Grievance Procedure have the right to have a union representative assist and represent them through every phase of the procedure. Employees should first determine whether or not they are in a bargaining unit.

The grievant or any involved management official may ask to participate in ADR during any stage of the negotiated grievance procedure in an attempt to reach a mutually agreeable resolution of the issues raised. Some collective bargaining agreements may provide for suspending the processing of the grievance through the Negotiated Grievance Procedure until ADR is completed.

• *How do I learn more about the negotiated grievance process?*

Employees who are interested in learning more about the Negotiated Grievance Procedure should contact a union official or shop steward, or the Labor Relations Office. Additional information may be found on the following: [http://ohr.gsfc.nasa.gov/Labor\\_Relations/home.htm](http://ohr.gsfc.nasa.gov/Labor_Relations/home.htm). Employees who wish to initiate a grievance through the Negotiated Grievance Procedure should notify a union official or shop steward.

### Equal Employment Opportunity (EEO) Complaints

• *Information about the EEO Complaint process*

The EEO complaint process provides individuals an avenue to seek redress for actions taken against them in the workplace that they believe resulted from illegal discrimination. The actions cited may be personnel- or work-related, or they may result from the Center's failure to respond appropriately. The EEO complaint process provides the individual opportunities to seek either a mutual resolution of those issues with management, or a decision by a third party on the validity of the claim of discrimination.

• *Who may use the EEO complaint process?*

Any individual who believes she or he has experienced a negative effect on employment due to an action or decision by an official or employee of GSFC, and who believes that this action or decision was made because of race, color, religion, sex, age (>40), national origin, physical or mental disability, or retaliation for prior EEO activity, may file an EEO complaint. **This process is also open to contractor employees when certain conditions are present. Contractor employees should contact the EEO office for additional information.**

• *How does the EEO complaint process work?*

Any individual who believes she or he has experienced an action that was discriminatory has 45 days from the date of that action, or from learning of it, to initiate an EEO complaint by contacting an EEO Counselor. During the counseling or informal phase, the counselor informs the aggrieved individual of her/his rights, including the right to representation during the complaint process and the right to anonymity during the initial phase. **The EEO counselor works with the individual and the offending party(ies) to explore informally the full scope of the issues raised and to help resolve them.** The EEO counselor, in accordance with MD-110 and 29 CFR 1614, will offer the employee the choice to select traditional counseling or Alternative Dispute Resolution (ADR) as a means for resolving their complaint. **The Equal Employment Opportunity Commission (EEOC) recognizes that not all cases are appropriate for ADR. This determination will be made by the Equal Opportunity Program Officer following consultation with the parties and ADR Program Manager. When an employee at NASA elects ADR to resolve his/her EEO complaint, management must assure that an authorized management official participates in the mediation session.** If either counseling or ADR fails to fully resolve the issues raised (as indicated by a signed resolution agreement), the aggrieved individual will be issued a formal notice of the "Right to File a Formal EEO Complaint." A formal EEO complaint must be filed at NASA Headquarters within 15 calendar days of receipt of that notice.

The formal complaint stage is concerned with the development of evidence and the determination of discrimination. It consists of the investigation phase and decision phase. The investigation phase consists of compiling evidence through the taking of affidavits and gathering documents. The complainant may request a hearing by an EEOC judge

before a decision on the merits of the complaint is made. If the complainant disagrees with the decision or if the investigation exceeds certain timeframes, the complainant may be entitled to appeal to the EEOC or file suit in a Federal District Court.

During the formal complaint stage NASA Headquarters may offer the complainant an additional opportunity to participate in ADR. Because it can take a long time before a decision is issued on a given complaint, complainants may wish to consider seeking an early resolution to the complaint by participating in ADR following the investigation phase.

- *How do I learn more about the EEO complaint process?*

Persons who have questions about the EEO complaint process should contact the EEO Office at (301) 286-7348 or an EEO counselor directly. The names, photos, and phone numbers of the current EEO counselors are posted on the EEO web site <http://eoo.gsfc.nasa.gov>, which also contains information about the complaint process. EO counselor information is also posted in all buildings on Center and listed in the GSFC Telephone Directory.

General information about the EEO complaint process is posted on the Equal Employment Opportunity Commission web site <http://www.eeoc.gov>. **Remember: an employee who believes he or she has experienced an action that was discriminatory has 45 days from the date of that action, or from learning of it, to initiate a complaint by contacting an EEO Counselor.**

### Merit Systems Protection Board (MSPB) Appeals

- *What is an MSPB appeal?*

MSPB appeals exist to ensure that a Federal employee's rights of due process regarding his or her employment

status is protected, that executive branch agencies make employment decisions in accordance with the Merit System Principles and that Federal Merit Systems are kept free of prohibited personnel practices. Most Federal employees may appeal various personnel actions affecting them to the MSPB. Most matters for appeal to the MSPB are personnel actions that have an adverse impact on employees, such as removal, suspension for more than 14 days, reduction in grade or pay, furlough for 30 days or less, reduction-in-force, performance-based actions, and certain other actions under regulations of the Office of Personnel Management.

- *Who may use the MSPB appeals process?*

Most, but not all, Federal employees may file appeals of adverse actions and performance-based actions to the MSPB. Probationary employees, non-appropriated fund activity employees, employees serving under a temporary appointment of 1 year or less, and employees in bargaining units with grievance procedures that cover any actions that may be appealed to the MSPB either do not have a right to file appeals or have restricted rights to do so.

- *How does the MSPB appeals process work?*

Employees must file a written appeal of the agency action with the MSPB's regional or field office serving the area where the duty station is located. Appeals must be filed within 30 calendar days of the effective date of the action, or within 30 calendar days of receipt of the decision, whichever is later. In those cases where the parties mutually agree to attempt resolution through ADR, MSPB regulations extend the appeal filing time for an additional 30 days. The MSPB encourages the parties to explore settlement of issues at any time during the appeals process, to prevent the need for an administrative hearing.

An MSPB administrative judge makes an initial decision, which becomes final unless a party petitions the full Board

for review. The Board's final decisions may be reviewed in the U.S. Court of Appeals for the Federal Circuit or, in some instances, Federal District Court.

- *How do I learn more about MSPB appeals?*

Employees interested in learning more about the MSPB appeals process or who wish to initiate an appeal should contact their personnel office, the MSPB, or an MSPB field office serving the area where their duty station was located when the action was taken. The MSPB offers additional information on its web site at <http://www.mspb.gov>.

## Office Of Special Counsel (OSC) Complaints

- *What are OSC complaints?*

OSC, an independent agency, has as its primary mission safeguarding the merit system by protecting Federal employees and applicants from "prohibited personnel practices (PPP)," especially reprisal for whistle blowing. OSC receives, investigates, and prosecutes complaints that an agency has committed PPP.

- *Who may use the OSC complaint process?*

The OSC complaint process is open to most Federal employees or applicants who believe that a PPP has been committed against them or other employees.

- *How does the OSC complaint process work?*

Employees may file PPP complaints with OSC, using OSC's required Form OSC-11, at any time after the alleged prohibited activity occurred. With a PPP complaint, it may be necessary for there to have been a related personnel action taken, such as an appointment, promotion, reassignment, or suspension. OSC analyzes the complaint to determine whether an investigation is warranted. OSC offers the parties the opportunity to voluntarily participate in mediation, a type of ADR, as an alternative to an investigation. If

matters remain unresolved through the investigation phase, OSC conducts a legal review and analysis to determine whether the investigation established a violation of law, rule, or regulation, and whether the matter warrants corrective action, disciplinary action, or both. OSC may seek corrective action during the complaint process, either through negotiation with the parties or in litigation before the Merit Systems Protection Board.

- *How do I learn more about the OSC process?*

Employees who wish to learn more about the OSC complaint process may call 1-800-572-2249 or 202-653-9125. Persons requiring enhanced audio communication may use the Federal Relay Service available at 1-800-877-8339. Additional information about the complaint process may be found on OSC's web site, <http://www.osc.gov>.

**A**ll organizations experience conflict.

Addressing conflict early often yields the best outcome.



