

### **What are the similarities between Mediation and EEO Counseling?**

Mediation and counseling are ideally completed within **30 calendar days** but cannot exceed 90 calendar days. Mediation however is usually completed in less time.

Mediation and counseling, resolutions take the form of a settlement agreement signed by all parties. It is legally binding.

Whichever form of resolution you elect mediation or counseling, your right to file a formal complaint is guaranteed if resolution is not reached.

### **What are the differences between Mediation and EEO Counseling?**

Witnesses are not called in a mediation. It is just you and the designated management official working with a neutral mediator who is experienced in resolving disputes. The mediator is focused on facilitating a discussion to find solutions to the dispute with you and the designated management official. In counseling, the EEO Counselor gathers the facts from you and other witness individually then shares what s/he discuss with you and management individually to see if the dispute can be resolved.

There is a very high success rate with mediation; most disputes are resolved. There is a low success rate with counseling; most disputes are not resolved. Complainants who are not satisfied at the conclusion of either process can file a formal complaint.

With mediation, a settlement agreement is crafted by the parties involved in the mediation. With counseling, a third party writes the agreement.

# **NAVY EXCHANGE SERVICE COMMAND**

# **/NEXCOM**

## **Contact Information**

**NEXCOM EEO  
Alternative Dispute  
Resolutions Manager**  
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**EEO Hot Line**  
**1-800-884-9459**

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**1-757-502-7559**

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**MEDIATE,  
DON'T LITIGATE!**

# **EQUAL EMPLOYMENT OPPORTUNITY ALTERNATIVE DISPUTE RESOLUTION**



**NEXCOM is committed to support The Department of the Navy (DON) Alternative Dispute Resolution Program provides professional service with highly trained certified mediators.**

**Navy Exchange Service Command  
Equal Employment Opportunity Office  
3280 Virginia Beach Blvd.  
Virginia Beach, VA 23542-5274**

## What is Mediation?

Mediation is one of many voluntary dispute resolution techniques collectively called Alternative Dispute Resolution or ADR.

In mediation, a neutral third-party assists the opposing parties to reach a voluntary, negotiated solution to a claim of discrimination.

Mediation gives those individual the opportunity to discuss the dispute, clear up misunderstandings, determine the underlying concerns, find areas of agreement and, ultimately, incorporate those areas of agreements into the form of a settlement agreement.

A mediator does not impose a decision on the parties. Instead, the mediator helps the parties to agree on a mutually acceptable resolution.

The Navy Exchange Service Command (NEXCOM) offers ADR as an alternative to Equal Employment Opportunity (EEO) pre-complaint counseling and workplace disputes.

## How does ADR work?

After contacting the NEXCOM EEO office to request counseling, an EEO staff member will offer you the option of mediating your issue(s) using ADR instead of EEO counseling. It is your choice.

If you elect ADR, management will identify the management official who will participate in the mediation with you. The management official attending the mediation session will have knowledge of the dispute and be authorized to resolve it.

Either party may have an attorney or other representation but it is not mandatory.

Every effort will be made to schedule your mediation within **30 days** from the date of your election to mediate.

The process starts with the mediator explaining how mediation works and answering your questions. During the mediation session, the mediator guides a discussion between you and the designated management official.

If mediation is successful, the terms agreed to are written down in a settlement agreement that is

binding on all parties.

If mediation is unsuccessful, you are given the right to file a formal complaint of discrimination.

## Why should you consider participating in Mediation?

**Fair and Neutral** – You and the designated management official have equal say in the process and both of you – not the mediator – decide the terms of the settlement. Guilt or innocence is not determined.

**Saves Time** – Many mediations are completed in one meeting. Legal or other representation is optional but not required. This process is much faster than litigation.

**Confidential** – Discussion that takes place during mediation will not be revealed by the mediation. After the mediation is over, the mediator destroys all of the mediator discussion notes if there are any.

**Avoids Lengthy Litigation** – It takes **up to 90 calendar days** for counseling at the pre-complaint level and more than a year to have a formal complaint processed and the outcome at both stages of the complaint process is uncertain. Mediation is quick and the outcome is a settlement agreement or the right to file a formal complaint.

**Fosters Cooperation** – Mediation fosters a problem-solving approach to disputes, which enables the individuals involved to use the techniques learned to reduce future workplace disruptions. Pre-complaint counseling and formal complaint investigations gather facts but the underlying problems may remain because they are not discussed.

**Improves Communications** – Mediation provides a neutral and confidential setting where both parties can openly and confidentially discuss their views on the underlying dispute. Parties share information which can lead to a better understanding of each other's perspectives.

**Design Your Own Solution** – A mediator assists you and the designated management

official in voluntarily reaching a mutually beneficial resolution. Mediation can resolve all underlying issues important to the parties, not just the legal dispute.

## At what point in the complaint process is it best to request Mediation?

The earlier mediation takes place in the complaint process the higher the probability that settlement is reached. The pre-complaint stage of the EEO complaint is the ideal time for mediation. Parties are not focused on the related facts only. They are more willing to discuss underlying perceptions, too.

## Are all issue(s) eligible for Mediation?

Although most issue(s) can be mediated there are a few that are not appropriate for mediation. Since NEXCOM wants to mediate in good-faith, the NEXCOM EEO Counselor will evaluate your issue(s) to determine whether mediation is appropriate. Factors such as the nature of the issue(s), the relationship of the parties, and the relief you seek are considered.

## What happens if management does not comply with the resolution reached in Mediation?

Any resolution reached during mediation is documented in the form of a legal settlement agreement. This is a written contract between you and NEXCOM. The settlement agreement is signed by you and the designated management official. This contract explains your rights in detail if NEXCOM does not comply. If you believe NEXCOM does not comply with the terms of the settlement agreement, which is called a breach, you must contact the NEXCOM EEO Director who will investigate the allegation of breach to determine if the agreement was breached.