



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS UNITED STATES AIR FORCE  
WASHINGTON, DC



9 MAR 1998

MEMORANDUM FOR ALMAJCOM-FOA/DPC/DPH

FROM: HQ USAF/DPC  
1040 Air Force Pentagon  
Washington, DC 20330-1040

SUBJECT: Authorization to Use Mediation for Military EOT Complaint Resolution

Effective immediately, the use of mediation for military Equal Opportunity and Treatment (EOT) complaints should be resumed. EOT technicians will use the guidance as stated in the attached interim change to AFI 36-2706, Military Equal Opportunity and Treatment program for the use of mediation to resolve military EOT complaints. The attached guidance was approved by AF/JAG, SAF/GCQ, and SAF/GCM. This new guidance will be included in the next revision to AFI 36-2706, Military Equal Opportunity and Treatment (EOT) program. My POC is Mr. Bob Cook, DSN 224-8488.

  
SANDRA G. GRESE  
Director  
Civilian Personnel Policy  
and Personnel Plans

Attachment:  
Interim change to AFI 36-2706

## Interim Change to AFI 36-2706

### *\*Section E - Mediation*

**4.32. Overview of Mediation.** The prompt and fair resolution of EOT complaints at the lowest level of the chain of command enhances morale, combat readiness and mission accomplishment. Mediation is an option that, in appropriate cases and with the consent of the Commander(s) concerned, may be used to facilitate communications between the disputants and lead to the early resolution of informal complaints to the satisfaction of the disputants.

4.32.1. The Air Force processes all complaints of unla@ discrimination fairly, impartially and in a timely manner.

4.32.2. The Air Force will resolve military EOT disputes as early as possible.

4.32.3. Mediation will be used to resolve complaints, whenever possible, once the complaint is determined to be appropriate for mediation by the Commander(s) concerned and the consent of the disputants has been obtained.

4.32.4. The Deputy Chief of Staff Personnel (USAF/DP) develops coordinates and executes personnel policy and approves the central guidance for the management of the EOT mediation program.

### **4.33. Minimum Training Requirement.**

4.33.1. DEOMI-trained EOT personnel will attend the approved USAF mediation training course. Completion of the approved USAF 3-day training course and certification are prerequisite to conducting EOT mediations.

4.33.2. EOT personnel who have received mediation training will ensure they receive eight hours of mediation refresher training from a source approved by the USAF at least once every eighteen months.

**4.34. Screening EOT Complaints for Mediation.** Not all EOT complaints are appropriate for mediation. Accordingly, EO technicians will employ the following criteria in screening cases before recommending to a complainant or commander that a case is appropriate for resolution through mediation. Mediation may be appropriate if the EO technician answers NO to each of the following questions:

4.34.1. Should this complaint be reserved for command action (either administrative or UCMJ action)? If command action appears appropriate because of the nature or severity of the complaint, mediation should not be recommended.

4.34.2. Will mediation of this complaint have a negative impact on unit morale, combat readiness or mission accomplishment?

4.34.3. Will mediation interfere with the resolution of the dispute at the lowest level of the chain of command?

4.34.4. Is mediation contrary to the consistent enforcement of Air Force EOT policy? In other words, would mediation be inconsistent with the normal resolution of the same or similar problem?

#### **4.35. Approving and Initiating Cases for Mediation.**

4.35.1. After applying the screening criteria in para 4.34., EO technicians will explain to complainants the mediation process and apprise them of whether mediation appears to be a good option for resolving their concerns. If a complainant desires to attempt mediation, the EO technician should advise the Commander(s) concerned of the circumstances of the complaint and make a recommendation to the Commander(s) regarding the appropriateness of using mediation to resolve the complaint. If the complainant and respondent have different commanders, both commanders should be involved in the decision to approve mediation.

4.35.2. Commanders should use the criteria of para 4.34. in deciding whether to agree to the use of mediation and consult with their servicing Staff Judge Advocate concerning whether a complainant should be reserved for command action (either administrative or UCMJ action). After consultation with his or her servicing Staff Judge Advocate, the Commander(s) will inform Social Actions whether mediation is approved.

4.35.3. If the Commander(s) approves mediation, the EO technician will contact the respondent, inform him or her of the mediation option and determine whether the respondent consents to mediation. If either the Commander(s) or the respondent does not consent to the mediation, the EO technician will inform the complainant of his or her rights to either pursue other forms of informal complaint resolution or to file a formal complaint of discrimination.

#### **4.36. Role of the EO Technician in Conducting Mediations.**

4.36.1. EO Technicians will:

4.36.1.1. Explain to the disputants that mediation is an alternative informal process to resolve concerns or allegations of unlawful discrimination and ensure the disputants understand the scope of the problem approved by the Commander(s) for resolution by mediation.

4.36.1.2. Explain that if facts are disclosed during the mediation process that materially diverge from or change the scope of the problem as approved by the Commander (see §4.35.3, above), thereby making command action (administrative or under the UCMJ) a consideration, then the EO technician will stop the mediation. The EO technician must then consult with the Commander to ensure his/her continued support of the use of mediation in light of the new information.

4.36.1.3. Not participate in formal cases, clarifications, inquiries, or inquiry assistance when they have been a party to, or acted as mediator in a previous case involving the disputants. He/she will immediately elevate the case (i.e. to the EOT NCOIC, Chief, Social Actions, etc.) and advise the parties' commanders, who have the inherent authority/responsibility to take appropriate administrative or disciplinary action in cases involving EOT violations.

4.36.1.4. Ensure mediations are conducted immediately to resolve unlawful discrimination complaints and to reach an early resolution.

4.36.1.5. Conduct the mediation in a facility that offers an atmosphere of privacy for individual counseling, consistent with the provision of 4.37, and ensure private counseling areas are available.

4.36.1.6. Ensure all agreements and settlements are coordinated and reviewed by the base legal office (SJA) for legal sufficiency.

4.36.1.7. Advise the disputants that mediation does not prohibit the Complainant from filing a formal complaint within the allotted time (60 days). If the mediation is unsuccessful or a mediation agreement is breached, the Complainant may file a formal complaint of unlawful discrimination as established in this instruction. The period of time between approval of the mediation and its failure or a breach of a mediation agreement will not be counted against the allotted time.

#### **4.37. Limited Confidentiality of EOT Complaint Mediations.**

4.37.1. The EO technician will advise the disputants that information received by the mediator during private sessions and caucuses will not, without the consent of the party concerned, be revealed during a joint session. The disputants will also be advised that mediation records, documentation or information may only be discussed or released to other EOT staff personnel, investigative personnel, Staff Judge Advocates, commanders or first sergeants on a need to know basis.

4.37.2. The EO technician will ensure information received in caucus is not revealed during joint session without prior permission from the party from whom the information was obtained.

#### **4.38. Case File Maintenance.**

4.38.1. Mediation is an informal process and will be recorded on AF Form 1587-1.

4.38.2. Apprise the disputants all notes taken during the mediation process will be destroyed (regardless of the outcome) upon final agreement. Destroy all notes including those taken by the mediator.

4.38.3. Maintain a copy of the final agreement on file in the Social Actions office, and ensure the final agreement only addresses the resolution or the complaint. Do not include allegations and offenses in the final general agreement. Mark these documents FOUO.

4.38.4. Establish and maintain case files using the following numbering format: Case No. M5-020-001 (e.g., M=Mediation, 5=FY, 020=case number used consecutively, 001=month). Number case files consecutively following the guidance provided for documentation EOT (E) and Referral complaint.

4.38.5. Maintain case files in accordance with table 2.1 under FOIA.

**4.39. Reporting and Documentation.** Report mediation cases of AF Form 3018, section III, under the Complaints/Assistance section in the "Other". Report the number of "M" cases processed and closed during the reporting period.

4.39.1. Prepare and initial final agreements which may be hand written and signed by the concerned parties (mediator, complainant, and alleged offender) to expedite timely resolution. Formal official typed agreements will be accomplished and prepared for the disputants within 2 duty days, prior to legal review. All parties will sign the official documents.

4.39.2. Prepare sufficient copies of agreement for all parties, maintain a copy in the EOT office, and forward a copy to SJA for legal review. SJA will determine legal sufficiency.

4.39.3. Terminate the mediation process when cases reach an impasse or deadlock and cannot be resolved to the satisfaction of the disputants. Advise the disputants of alternative complaint procedures.

**4.40. Follow-up.** EOT will follow up on mediation cases at least once within 30 days after the resolution of the complaint to ensure reprisal does not occur and the parties are adhering to the agreement.

**4.41. Commander Advisement.** Advise commanders only, consistent with 4.37, whether the mediation was successful or unsuccessful.

4.42. Disposition. Case files will be maintained for a 2-year period unless otherwise established under USAF disposition rules and instructions.