



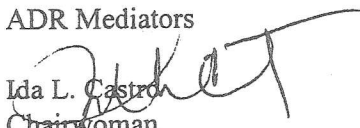
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, DC 20507

APR - 4 2001

Office of
the Chairwoman

MEMORANDUM

TO: District Directors
Director, Washington Field Office
ADR Coordinators
ADR Mediators

FROM: Ida L. Castro 
Chairwoman

SUBJECT: ADR Mediator Promotions

I am happy to inform you that the Office of Human Resources (OHR) has completed a study of mediator positions in the field. The study included a review of the current position descriptions for mediators and the appropriate classification background material, including several Office of Personnel Management (OPM) position classification standards, as well as consultations with Elizabeth Thornton, Director, Office of Field Programs and her staff. The purpose of the study was to determine whether advancement from GS-12 to GS-13 could be considered a career ladder promotion.)

We have concluded that because the GS-13 classification is so heavily based on the personal attributes of the mediator, we cannot assume that all mediators will be able to reach the GS-13 level. Therefore, each promotion to the GS-13 level will be examined on an individual basis and will not be a career ladder promotion. However, we have also concluded that it is possible to noncompetitively promote, based on an accretion of duties, those GS-12 mediators who have acquired the necessary degree of ingenuity and expertise and are now functioning at the GS-13 level. We have developed the attached criteria to facilitate the review of those GS-12 mediators who warrant promotion. Additionally, we have entered into a Memorandum of Understanding (MOU) with the National Council of EEOC Locals, No. 216 concerning the effectuation of these promotions. That MOU is also attached.

District Offices with GS-12 mediators should review these criteria and the MOU without delay. If those GS-12 mediators meet the qualification requirements for the GS-13, are performing at the level described in the criteria, and can reasonably be expected to continue to perform at that level, then the Office should submit through normal channels a SF-52, Request for Personnel Action, for promotion. A written justification explaining how the employee meets the criteria must be included. If approved, the promotion will be processed as a reclassification based on accretion of duties. Those offices which have GS-12 mediators who they determine do not presently meet these criteria should also follow the process articulated in the MOU.

If you have any questions or require any assistance concerning this matter, please contact Ken Myers of OHR. Ken can be reached at (202) 663-4339.

Attachment

cc: Field PMS/AOs

Gabrielle Martin
National Council President

Criteria for GS-13 Mediator Positions

The Office of Human Resources (OHR) has completed a review of the ADR Mediator position in the field and determined that promotions from GS-12 to GS-13 are not part of a career ladder. Because the classification of GS-13 mediator positions at EEOC is primarily based on the special expertise, skill and knowledge possessed and utilized by the mediator rather than the nature of the cases handled, not every mediator can reasonably be expected to reach the GS-13 level. Therefore, each promotion to the GS-13 level must be looked at individually. The following criteria were developed to facilitate the review of those GS-12 mediators who warrant promotion to GS-13.

Mediators at the GS-13 level possess a mastery of the field of mediation, and they are considered experts by management, co-workers and participants in the process. They exercise resourcefulness and ingenuity to win cooperation of the participants or to develop new approaches or solutions to problems where accepted methods and techniques have been challenged. They take the initiative to find innovative and unique ways to isolate and solve complex problems without compromising the confidentiality of the issues involved. They establish a high degree of acceptability to the parties involved particularly when issues are sensitive and the parties are hostile and resistant to compromise. On cases involving co-mediators the GS-13 mediator normally functions as a senior or lead mediator over lower graded staff, contract or pro bono mediators. They also provide training and technical guidance to new or lower graded mediators as well as contract and pro bono personnel.

As a technical expert the GS-13 mediator normally receives only administrative supervision with minimum oversight. They function with maximum independence throughout the course of the assignment determining which of the cases available for mediation merit continuation of the process. [The mediator independently contacts the parties involved, sells them on the program, schedules the meeting, mediates the discussion between the parties guiding them to a mutually agreeable solution and drafts the settlement agreement.] Settlement agreements are artfully crafted to accurately reflect the solution agreed upon and are rarely questioned from a technical or substantive standpoint by the supervisor or successfully challenged later by either of the participants. The GS-13 mediator independently makes the determination when the parties have reached an impasse and sends those cases to the Enforcement Unit for investigation.

MEMORANDUM OF UNDERSTANDING BETWEEN THE NATIONAL COUNCIL OF EEOC
LOCALS No. 216 AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
REGARDING PROMOTION OF GS-12 MEDIATORS TO GS-13 MEDIATORS

In as much as the Equal Employment Opportunity Commission (EEOC) has a grade structure for Mediators which includes Mediators at the grades of GS-12 and GS-13 and seeks to establish criteria by which to promote GS-12 Mediators to GS-13 Mediators, the EEOC and the National Council of EEOC Locals No. 216 (Council 216) agree as follows:

1. **Eligibility Requirements.** To be promoted to an ADR Mediator GS-13, the employee must meet the following eligibility requirements:
 - A. have served at least one full year at the GS-12 level;
 - B. have a "fully successfully" or higher rating of record; and
 - C. have demonstrated the ability to perform at the GS-13 level as determined by the position description for the GS-13 Mediator.
2. **Promotion Criteria.** In order to be promoted, ADR GS-12 Mediators who meet the eligibility requirements of 1A through 1C above must also meet the criteria for ADR Mediator GS-13 positions developed by the Office of Human Resources(OHR) and the ADR GS-13 position description.
3. Within 30 days of the effective date of this MOU, the supervisor of each ADR GS-12 Mediator shall determine whether the employee meets the eligibility requirements listed in 1A and 1B, above. For each Mediator determined to meet the eligibility requirements, the supervisor shall consider the employee for promotion by evaluating the Mediator against the promotion criteria described in paragraph 2, above.
4. The supervisor will fill out the appropriate forms to effectuate the promotion of each Mediator determined by the supervisor to meet the promotion criteria.
5. ADR GS-12 Mediators who do not meet the promotion criteria or who will not be promoted, will be so advised. The supervisor, **when requested by the employee**, will provide the employee a written explanation of what he or she must do to be recommended for promotion.

6. Within 5 days of the effective date of this MOU, all ADR GS-12 Mediators shall be provided with copies of the following documents:
 - A. this MOU,
 - B. the Position Description for GS-13 Mediator positions,
 - C. the Criteria for GS-13 Mediator Positions.
7. ADR GS-12 Mediators described in paragraph 5 above shall be afforded an opportunity to develop and demonstrate the mediation skills necessary to meet the promotion criteria as described in paragraph 2 of this MOU. Development of skills may include, but is not limited to additional training and co-mediations.
8. The provisions of this MOU shall not be altered or amended without the mutual written consent of the Parties.
9. Any disputes arising from the application or interpretation of this MOU shall be resolved through the negotiated grievance procedure or any appropriate third party procedure.

Dated this 4 day of April 2001.

NATIONAL COUNCIL OF EEOC
LOCALS No. 216

Levi Morrow, Chief Negotiator

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION



Ida L. Castro, Chairwoman

Gabrielle Martin, President

6. Within 5 days of the effective date of this MOU, all ADR GS-12 Mediators shall be provided with copies of the following documents:
 - A. this MOU,
 - B. the Position Description for GS-13 Mediator positions,
 - C. the Criteria for GS-13 Mediator Positions.
7. ADR GS-12 Mediators described in paragraph 5 above shall be afforded an opportunity to develop and demonstrate the mediation skills necessary to meet the promotion criteria as described in paragraph 2 of this MOU. Development of skills may include, but is not limited to additional training and co-mediations.
8. The provisions of this MOU shall not be altered or amended without the mutual written consent of the Parties.
9. Any disputes arising from the application or interpretation of this MOU shall be resolved through the negotiated grievance procedure or any appropriate third party procedure.

Dated this 4th day of April 2001.

NATIONAL COUNCIL OF EEOC
LOCALS No. 216

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Levi M. Morrow
Levi Morrow, Chief Negotiator

Ida L. Castm, Chairwoman

Gabrielle Martin
Gabrielle Martin, President