

Policies of the University of North Texas Health Science Center	Chapter 05
05.902 Voluntary Alternative Dispute Resolution	Human Resources

Policy Statement.

Purpose: The purpose of alternative dispute resolution (ADR) is to provide an internal process to increase faculty and staff options in addressing their health science center-related disputes and to further the voluntary resolution of problems at the earliest opportunity. However, nothing in this policy shall preclude the Equal Employment Opportunity Office from investigating allegations of discrimination. In accordance with state law, the policy also affords a tenured faculty member subject to termination on the basis of post-tenure review the opportunity for referral of the matter to a non-binding alternative dispute resolution process.

Center-related disputes: It is the policy of this institution that health science center-related disputes be addressed in a manner that encourages the resolution of conflict and advances the opportunity for productive learning and work relationships. To resolve conflicts at the earliest possible stage and to address problems with the least damage to working relationships, mediation and collaborative problem solving are available for all faculty and staff. Problems eligible for ADR include but are not limited to: hours of work, working conditions, performance evaluations, post-tenure review as provided for in the Faculty By-laws, merit raises, job assignments, reprimands, and other work-related disputes.

Application of Policy.

Faculty and Staff

Definitions.

1. **Mediation:** Mediation is a forum in which an impartial person facilitates communication and assists with negotiation between parties to resolve the problems/issues and promote reconciliation, settlement and understanding among them. Except for mediation (ADR) invoked as result of post-tenure review, all other ADR sessions are totally voluntary; thus all parties to a dispute must agree to mediation before arrangements will be made for a session. The mediation service, which has been established here, is collaboration between the health science center and a group of volunteer employees, who have been fully trained in mediation, from various departments within the institution. In cases involving a tenured faculty member's termination on the basis of post-tenure review, the health science center is obligated to offer mediation services. In accordance with State law, a tenured faculty member subject to termination on the basis of post-tenure review must be afforded the opportunity for referral of the matter to a non-binding alternative dispute resolution process. All parties to a dispute must agree to mediation before arrangements will be made for a session.

2. **Problem-solving:** Problem-solving generally consists of a trained individual working with a person who requests individual assistance with a problem. Problem-solvers may help to clarify the problem, provide needed information and referrals, and assist in identifying options and developing a plan to solve the concern. A list of qualified individuals available for problem solving will be posted on the HRS bulletin board or is available by phone from HRS or the EEO Office.

3. **Exclusions:** Issues specifically exempt from mediation include: issues regarding actions or decisions by the administration that are reviewable under separate procedures provided for in the institution's faculty bylaws, probationary separation, or other approved policies and procedures of the center and all non-center disputes. Also exempt are scientific misconduct, scholastic integrity, and academic peer review except for post-tenure review as provided for in the Faculty By-laws, medical peer review process, and reductions in force. Clinical affairs medical issues including, but not limited to physician practice and patient care are also excluded. Resolutions achieved through mediation or problem solving cannot dictate the expenditure or reallocation of the institution's human, financial, or physical resources without proper approval. Nothing in this policy should be interpreted to allow any violation of law or health science center policy.

4. **Agreements:** A mediated agreement is between the parties of the dispute who participate in the mediation process and sign the mediation agreement. Mediators will seek to assist the parties in placing their agreements in writing on a University of North Texas Health Science Center Mediation Agreement Form. Agreements are binding only upon the participating parties acting with proper authorization and not upon successors or replacements.

In the event a party fails to comply with the commitments or conditions contained in the mediation agreement and the issue under mediation falls within the scope of Policy 05.201, Nondiscrimination/Equal Employment Opportunity and Affirmative Action, the other party may seek the intervention of the Equal Employment Opportunity Office.

The Equal Employment Opportunity Office may work with the health science center administration to assist with enforcement of the mediation agreement, or institute an investigation of the underlying complaint.

In the event a party fails to comply with a mediated agreement and the issue does not fall within the scope of the Non-discrimination/Equal Employment and Affirmative Action Policy, a party may request a subsequent mediation or, if a staff member, pursue his/her concern through the procedures established under the Health Science Center's Staff Complaint and Grievance policy, 05.903.

Procedures and Responsibilities.

Procedure / Duty

Responsible Party

1. **Responsibilities:** The Human Resource Services Department will coordinate and support the activities of the Voluntary Alternative Dispute Resolution System. It will maintain a current list of mediators and problem-solvers that are available to assist in facilitating communications, solving problems, and resolving conflicts. Mediators will be trained in appropriate practices to help protect the confidentiality of disputants to the extent permitted by law. Human Resource Services

2. **Procedures:** Employees interested in seeking mediation services should contact the Human Resource Services Office or the Equal Employment Opportunity Office. Any employee who wishes to file a grievance and subsequently contacts the Human Resource Services Office or EEO Office to initiate an official grievance will be advised of the opportunity to address the issue through mediation. The employee will be expected to:
 - submit a written request for mediation and for Human Resource Services to contact the other party;
 - provide a written statement describing the issue(s);
 - identify any alleged violation of the application of policy or procedure; and
 - state the desired outcome requested of management.Employee/Human Resource Services

Human Resource Services will contact the other party to arrange the mediation process. If the employee voluntarily elects to address the dispute through mediation and the party with whom the employee has a dispute agrees to participate in mediation, the official grievance will be suspended pending the outcome of the mediation. The employee's rights to continue the grievance process are preserved until three (3) working days after the conclusion of the mediation.

A mediation meeting will be scheduled to occur within ten (10) working days after the conclusion of the mediation. A mediation meeting will be scheduled to occur within ten (10) working days of the filing date identified on the grievance form. If the other party declines to participate in mediation, the written grievance will be presented to the first level of management.

If mediation is not successful, the employee may elect, within three (3) working days, to continue the official grievance process.

3. **Selection of mediators:** The health science center will maintain a list of trained individuals available for mediation service within the center. Upon request for mediation, a mediator(s) will be assigned by Human Resource Services or the Equal Employment Opportunity Office. Principals to the mediation have the right to request an assigned mediator be removed based on basis of conflict of interest or impartiality. Human Resource Services

4. **Stipulation:** Users of the ADR process do not forfeit their rights to access existing grievance processes, and vice-versa. Upon request to mediate, time requirements of any applicable formal appeals policy will be suspended for a period of normally, not to exceed, thirty (30) continuous calendar days to allow for mediation. Except in extenuating circumstances, the mediator will determine if an extension is necessary with no subsequent suspension or abeyance period being granted to provide for alternative dispute resolution procedures. If the dispute is not resolved before the end of the suspension period, applicable time requirements will recommence as of the point of suspension. No presumption of fault is to be drawn from a party's decision to proceed with or to forego the opportunity to engage in mediation.

Human Resource
Services

Resolutions achieved through mediation or problem solving cannot dictate the expenditure or reallocation of health science center human, financial, or physical resources without proper approval. Nothing in this policy should be interpreted to allow any violation of law or health science center policy.

Users of voluntary alternative dispute resolution processes do not forfeit their rights of access to other appropriate procedures, and vice-versa. No presumption of fault is to be drawn from a party's decision to proceed with or to forego the opportunity to engage in mediation.

Faculty subject to termination under the post-tenure review policy must follow the time lines established in the Faculty Handbook. Formal grievance procedures for all other disputes may be suspended for specific periods to allow for mediation.

- On the day that both parties in a dispute file a request for mediation the formal 60- day Alternative Dispute Resolution timeline begins.
- The 60-day Alternative Dispute Resolution time period suspends the time requirements of any applicable formal appeals policy, except for faculty subject to termination on the basis of post-tenure review appeals.
- Except in extenuating circumstances, no subsequent suspension or abeyance period shall be granted to provide for alternative dispute resolution procedures.
- If one enters the Alternative Dispute Resolution process after first starting a formal complaint and the dispute is not resolved upon the completion of mediation or before the end of the suspension period (whichever comes first), the individual will have five (5) working days to recommence the formal appeals process.

The applicable time requirements of the formal appeals process will recommence as of the point of suspension.

5. **Record Retention:** The original allegation, whether mediated or not, may be used as evidence in subsequent investigations and hearings relating to charges of discrimination and/or sexual harassment that occur within 10 years of the date the original allegation was made. Except as provided in section 7, mediated agreements may not be used as evidence in subsequent proceedings.

Human Resource
Services/
Mediators

1. The Human Resource Services Department will not retain any written record from the mediation process except the successful mediation agreement, which will be made available to the complaining party and the charged party upon request.

2. The mediators will discard all other documents and notes as soon as the mediation process had been concluded.

Unless otherwise required by state law or the Records Retention Policy, the complaint and mediation agreement will be discarded after 10 years, unless stipulated in the agreement, or if no other incidents occur during the 10 year period.

References and Cross-references.

Texas Education Code, § 51.942 (d)

05.903 Complaint and Grievance Policy

05.201 Nondiscrimination-Equal Opportunity and Affirmative Action

Forms and Tools.

Mediation Agreement Form

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Revised: