

Licensee-Sponsored ADR Program >>>

Upon establishing its Early ADR program, the NRC also encouraged its licensees to develop and sponsor their own ADR programs. In a licensee-sponsored ADR program, parties may or may not use a mediator. If the parties settle an allegation of discrimination under any type of ADR process at their own expense and if either party provides a copy of the settlement agreement to the NRC before the NRC's Office of Investigations has initiated an investigation, the NRC will review the settlement agreement to ensure it does not prohibit the employee from engaging in a protected activity. Provided there is no such prohibition, the NRC will not investigate the allegation of discrimination or take enforcement action.

However, if a settlement agreement is provided to the NRC after it has started its investigation into the allegation of discrimination, the investigation will continue.

The resolution of technical safety concerns or other allegations (e.g., "chilling effect" or wrongdoing types of concerns) cannot be the subject of a licensee-sponsored ADR settlement agreement. If an individual has a concern other than an allegation of discrimination, he or she may file such other allegations with the NRC by calling (800) 695-7403 or visiting www.nrc.gov/about-nrc/regulatory/allegations/safety-concern.html.

If the parties do not settle the allegation of discrimination that falls within the NRC's jurisdiction, the NRC's Office of Investigations will begin an investigation into the allegation of discrimination.

U.S. Department of Labor Process >>>

DOL has the authority to order personal remedies if it substantiates an allegation of discrimination. The NRC does not have this authority. DOL has a 180-day deadline for filing a discrimination complaint under Section 211 of the Energy Reorganization Act of 1974. There are shorter deadlines for other laws under which similar complaints may be filed. The employee must file a written complaint with DOL within 180 days of the date of the alleged discriminatory action or the date he or she received any notice, in writing or otherwise, of the discriminatory action, whichever occurred first. The employee can file any such complaint with the applicable DOL regional office for the Occupational Safety and Health Administration.

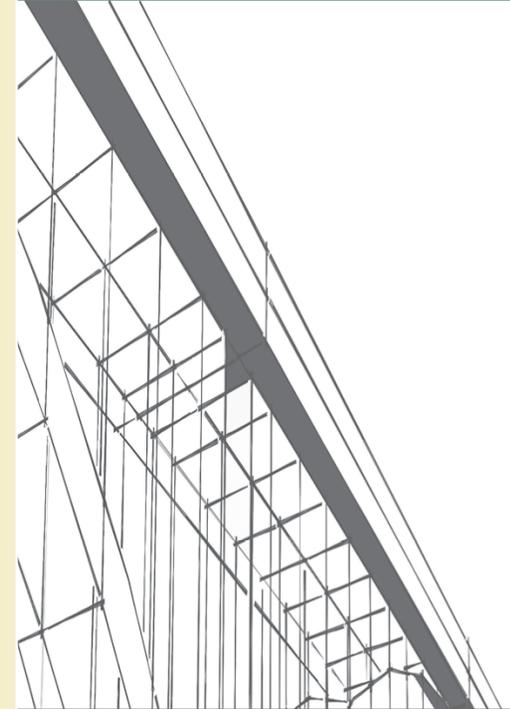
Participation in the NRC's Early ADR program or a licensee-sponsored program may result in negotiation of the same discrimination complaint filed with DOL, but this does not alter DOL's 180-day requirement for filing a discrimination complaint. For this reason, if DOL's filing deadline has not already expired, the individual should consider filing a discrimination complaint with DOL at the same time he or she is considering using a licensee-sponsored program or the NRC's Early ADR program.

Please see <http://www.whistleblowers.gov> for more information about filing a discrimination complaint with DOL.

Additional Sources of Information >>>

More information about the NRC's ADR program is available from the following:

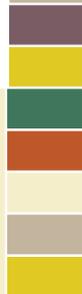
- Cornell University's Scheinman Institute on Conflict Resolution
Toll-Free Number: (877) 733-9415
- The NRC's Office of Enforcement ADR program on the agency's Web site at www.nrc.gov/about-nrc/regulatory/enforcement/adr.html
- The NRC's ADR Program Manager in the Office of Enforcement
Toll-Free Number: (800) 368-5642 or (301) 287-9527



Pre-Investigation Alternative Dispute Resolution Program



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Pre-Investigation ADR Program Overview >>>

The U.S. Nuclear Regulatory Commission's (NRC's) Pre-Investigation Alternative Dispute Resolution (ADR) Program consists of three parts: (1) the NRC's Early ADR process, (2) specific interfaces with licensee-sponsored ADR programs, and (3) specific aspects of U.S. Department of Labor (DOL) processes. This brochure describes each of these parts and anyone interested in resolving allegations of discrimination or filing a discrimination complaint is encouraged to become familiar with all three.

The NRC's Early ADR Process >>>

The NRC established its "Early ADR" program in 2004. The NRC's Early ADR program provides an individual and his or her employer (or former employer) within the NRC's jurisdiction the opportunity to resolve the individual's allegation of discrimination through mediation rather than through litigation or having the NRC initiate an investigation. Mediation is an informal and voluntary process between an individual and his or her employer (or former employer) in which a trained mediator works with the parties to help them settle their dispute. Early resolution of discrimination allegations tends to preserve relationships and generally promotes a safety-conscious work environment by facilitating timely and amicable resolution of discrimination concerns while avoiding prolonged litigation and unnecessary expenses. The resolution of technical safety concerns or other allegations (e.g., "chilling effect" or wrongdoing types of concerns) is not within the scope of the NRC's Early ADR program and cannot be the subject of any settlement agreement. If an individual has a concern other than an allegation of discrimination, he or she may file such other allegations with the NRC by calling (800) 695-7403 or visiting www.nrc.gov/about-nrc/regulatory/allegations/safety-concern.html.

The Program Administrator >>>

Cornell University's Scheinman Institute on Conflict Resolution (Cornell) is under contract with the NRC to serve as a neutral program administrator. Cornell manages the logistics associated with the NRC's Early ADR process, including working with the parties to select a mediator. Cornell uses a network of independent mediators who help the parties find ways to reach a common understanding and settle their disputes.

The Mediator >>>

The mediator is neutral. In other words, he or she has no stake in the outcome of the mediation and does not have any power to make decisions that bind either party. Instead, the mediator's role is to facilitate open communication between the parties and provide an environment where the parties can more effectively address their interests. The mediator uses consensus-building and negotiation skills to help the parties find ways to overcome misunderstandings and reach a common understanding on issues. The mediator does not act as legal counsel or provide legal advice to any party. Each party should consult an attorney or other professional if any questions arise about the law, the content of a proposed agreement, or other issues.



Costs >>>

The NRC (through Cornell) will pay the fees and expenses of the mediator whom the parties mutually select from a list of mediators provided by Cornell. Parties who choose to select a mediator not identified by



The Mediation Process >>>

After the NRC receives an allegation of discrimination that falls within its jurisdiction, the employee will be offered a chance to resolve the dispute through mediation instead of through an NRC investigation. If the employee agrees to engage in mediation with the employer, he or she will inform Cornell, which will contact the employer. If the employer also agrees to engage in mediation with the employee, Cornell will help the parties jointly select a mediator. After agreeing on a mediator, the parties, in coordination with the mediator, set a date and place for the mediation. Typically, the mediator holds a premediation teleconference with the parties to discuss logistics or any special needs.

During the mediation, the mediator will give each party an opportunity to explain the issues. Often, the mediator will meet privately with each party to develop a clear understanding of the parties' perspectives, and explore and assess options. The mediator may ask questions intended to aid the parties in assessing the merits of their positions, help them converse in a respectful atmosphere, and identify potential settlement options.

Cornell may do so at their own expense. The parties are also responsible for their own expenses such as travel, lodging, meeting room, and legal fees, if any.

Mediation Location and Duration >>>

The parties may select any location for mediation, although parties usually agree to hold the mediation near the employee's workplace. Mediation sessions usually last no longer than 1 day. In some cases, the mediation may take longer with the mutual consent of the parties.

Confidentiality >>>

With limited exceptions (e.g., court order), the mediation process is confidential. The mediator is prohibited from discussing the details of the mediation proceedings or testifying on anyone's behalf concerning the mediation.

If the parties reach a settlement, they may sign the settlement agreement at or after the mediation session, depending on the parties' preference. After both parties sign the agreement, they must provide it to the NRC for review to receive credit under the program. The NRC will review the settlement agreement solely to ensure that it does not prohibit the employee from engaging in a protected activity.

If there is no such prohibition, the NRC will not investigate the allegation of discrimination or take enforcement action. For purposes of the NRC's Early ADR program, a settlement agreement will not become binding until 3 days after the parties sign it, to allow each party a final opportunity to review the agreement.

If either party declines mediation at any time, or if the parties do not reach a settlement agreement, the NRC's Office of Investigations will begin an investigation.

