

# **Augusta University**

## **Policy Library**

## **Alternative Dispute Resolution (Mediation) Policy**

**Policy Owner:** University HR Services

### **POLICY STATEMENT**

Augusta University embraces alternative dispute resolution (ADR) as a means for resolving conflicts and disagreements. It is the policy of Augusta University to resolve disputes fairly, and at the lowest possible level. The faculty, students, and staff of Augusta University are encouraged to seek an appropriate resolution to any conflict within our institution through discussion with those persons and departments which may be involved.

The University also encourages mediation as a form of alternative dispute resolution and provides mediation coordination services to its employees through an ADR Coordinator and Committee on Alternative Dispute Resolution.

To define the procedure for resolving disputes and for handling informal mediations.

### **AFFECTED STAKEHOLDERS**

*Indicate all entities and persons within the Enterprise that are affected by this policy:*

- Alumni       Faculty       Graduate Students       Health Professional Students  
 Staff       Undergraduate Students       Vendors/Contractors       Visitors  
 Other:

**Please note: Faculty members may also follow the procedures outlined in the University Senate Bylaws (2.5.12).**

This policy does not apply to employees covered by the Personnel Agreement between Augusta University (University) and the AU Medical Center (AUMC), and whose services are “leased” to GRMC under the terms of that agreement. These employees are referred to as “Leased Employees” and they are subject to the procedures of GRMC. Upon a final determination by GRMC, a leased employee does have the right to appeal to the President of Augusta University.

### **DEFINITIONS**

Alternative Dispute Resolution (ADR) Coordinator: The Director of Employee Relations within the division of Human Resources serves as the Augusta University Alternative Dispute Resolution (ADR) Coordinator for faculty and classified staff matters. The Dean of Students will serve in this role for student matters. When a situation involves a student and a faculty member or a student and a classified staff member, the Director of Employee Relations and Dean of Students will have joint responsibility.

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**Office of Compliance and Enterprise Risk Management Use Only**

**Policy No.:** 504

**Policy Sponsor:** Type the title of the Executive Leader of the department.

**Originally Issued:** Not Set

**Last Revision:** 08/10/2016

**Last Review:** 06/13/2017

## PROCESS & PROCEDURES

### Informal attempts

Conflicts and disagreements between employees and their supervisors are inevitable. It is the policy of Augusta University to resolve disputes fairly, and at the lowest possible level. When conflicts or disagreements occur, employees should first attempt to resolve them through discussion with their supervisor. However, an employee must follow their supervisor's directives, even if they disagree with them, unless the directives are clearly illegal or unsafe, in which case the matter should be brought immediately to the next higher authority. When discussion with their supervisor fails to resolve a dispute, an employee has several other options. They may take the issue up with the next higher authority, or, they may consult the Human Resources Division. The Augusta University Informal Mediation Program is also available to help resolve disputes.

### Mediation

If all reasonable informal efforts to resolve the complaint fail, active members of the Augusta University community are encouraged to request mediation. Mediation is an informal process that involves a neutral third party who will assist in resolving the dispute. The objective of this process is to come to an agreement that is fair and meets the needs of the parties involved. This process is confidential and private and is conducted in a closed setting. The request for mediation is submitted to Augusta University's Alternative Dispute Resolution (ADR) Coordinator. The procedure for filing a request for mediation is given below:

1. Person makes a request to the ADR Coordinator for mediation to resolve a conflict.
2. If either party contends the conflict involves a sexual harassment complaint, the matter will be referred to the Office of Employment Equity (AA/EEO Office); the ADR Coordinator will have no further obligation with such a complaint. However, if neither party characterizes the conflict as involving sexual harassment, the conflict remains with the ADR Coordinator.
3. The ADR Coordinator will recommend a mediator. If both parties accept the recommended mediator, mediation moves forward. If the recommended mediator is not acceptable to one or both parties, a second mediator is suggested. This process continues until Augusta University's pool of trained mediators is exhausted, at which time a mediator may be recommended from the Consortium on Negotiation and Conflict Resolution (CNCR).

**A. Oversight and Administration.** The Augusta University Informal Mediation Program shall be administered by the Committee on Alternative Dispute Resolution and the ADR Coordinator.

1. The Committee on Alternative Dispute Resolution shall consist of members as appointed by the President or designee and shall oversee the Mediation Program, and advise the President and the ADR Coordinator concerning the Mediation Program.
2. The Director of Employee Relations will serve as the ADR Coordinator as defined above. The ADR Coordinator will serve as the Chair of the Committee on Alternative Dispute Resolution. In addition, the ADR Coordinator shall:

Act as a first point of contact for any member of Augusta University community who wishes to use the Mediation Program;

Screen requests for mediation using the criteria described below (and Exhibit "A");

Provided that mediation is appropriate, arrange for an approved, neutral mediator to mediate the dispute, including mediators from off-campus when necessary (this latter responsibility will include requesting funds as necessary to cover the cost of an off-campus mediator's expenses);

Obtain feedback from the participants in each mediation to find ways of improving the Mediation Program (using Exhibit "B");

**B. Mediators.** The Committee on Alternative Dispute Resolution shall be nominated by vice presidents, deans, department chairs, and division directors for appointment by the President or designee and shall include current Augusta University faculty, students, and staff. Each nominee must successfully complete an appropriate course designed to train mediators (such courses should normally include a total of 20 hours of instruction and mock mediations). The Committee on Alternative Dispute Resolution will act as a neutral group to identify disputes that would benefit from mediation and direct others to appropriate alternative University resources. If needed, the Committee on Alternative Dispute Resolution may request funding to pay the expenses involved in obtaining proper training and experience for potential mediators. At times, it may be appropriate to obtain a mediator from off campus. In these instances, the ADR Coordinator should contact other institutions within the University System to obtain a neutral mediator. The ADR Coordinator may request funds to reimburse this off campus mediator for their travel. If other institutions within the University System request the services of mediators from Augusta University, the requesting institution must pay the expenses involved in our mediator's travel. When an outside mediator is necessary, the manager's College or Department shall be obligated to pay the cost of the mediation.

Upon the request of the ADR Coordinator, mediators shall arrange an appropriate time and place to conduct the mediation in question obtain the participants' written consent per Exhibit "C" and conduct the mediation in accordance with their best professional judgment.

**C. Mediations.** Participation in mediations shall be voluntary. However, managers are strongly advised to include mediation, where appropriate, in the early stages of a dispute before it results in a grievance. Failure to do so may subject the manager to required mediation prior to taking any final disciplinary action against an employee. Time spent in mediations shall be considered part of an employee's normal working time. Employees shall not be required to

take annual or other leave to participate in mediation, and supervisors are strongly discouraged from authorizing the use of overtime for mediations. Supervisors shall make reasonable efforts to make employees available to participate in mediation.

The Mediation Program shall be available for disputes between members of the Augusta University community of faculty, students and staff, with the following exceptions:

1. Disputes that have been the subject of a final ruling or decision according to Augusta University policies and procedures. For example, if someone has already been terminated, mediation is not available. Also, if the President has ruled on a grievance or appeal, then decision must stand.
2. Disputes involving purely academic decisions. Because academic decisions (such as the subjective assessment of a student's paper) are not subject to administrative or judicial review, they are also inappropriate for mediation. However, disputes involving academic matters may concern other issues such as race or gender discrimination. In those cases, mediation may be available, but only for the nonacademic issues.
3. Disputes that do not concern a matter which, if left unaddressed, could result in either harm to the institution or discipline for an employee or student of Augusta University. This rule is intended to give the ADR Coordinator the discretion to deny mediation for trivial matters, or for matters that have no relation to the official business of Augusta University.

Both the mediators and the parties should normally consider the statements made during mediation to be private, and the mediator shall normally destroy any notes kept during the mediation. However, there is no legal privilege which protects the statements made during mediations, and all participants, including the mediators themselves, is required to report statements which reveal conduct which is criminal or which poses a significant risk to the safety of others or the proper operation of Augusta University.

The parties to mediation should reduce their resolution of their dispute(s) to writing. Such written agreements must be consistent with the rules and policies of Augusta University. If appropriate, the mediator should remind the parties of the limits of their authority, and of the possible need to discuss their proposed resolution with their supervisors or with other departments on campus which may be affected or involved.

## **REFERENCES & SUPPORTING DOCUMENTS**

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## **RELATED POLICIES**

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## **APPROVED BY:**

President, Augusta University and CEO, AU Health System    Date: 06/13/2017