

## **Policy 1404 Mediation**

**Date of Policy: June 2008**

**Responsible Office: Human Resources**

---

### **1. PURPOSE**

While James Madison University has established procedures for the resolution of grievances, the university would benefit from other alternative dispute resolution processes that may provide a more collegial, less adversarial and thus a more satisfying means to resolve conflicts. Therefore, a mediation program for university employees is available.

### **2. AUTHORITY**

The Board of Visitors has the authority to make policy concerning the effective management of employee relations. Where the board has not enacted specific policy, the authority is delegated to the President.

### **3. DEFINITIONS**

#### **Mediation**

A process by which participants, with the assistance of trained mediators, identify disputed issues, share perspectives, develop options, consider possible solutions and seek to reach a mutually acceptable resolution to their dispute. Participants in mediation make informed and deliberate decisions to resolve past problems and discuss future relationships directly and confidentially. A request for mediation may be made in person, by telephone, by email or as a referral from a supervisor and/or department manager or director.

#### **Qualified University Mediator**

A member of the JMU Mediator Pool who has satisfactorily completed the Mediation Training program offered by JMU. The mediator is an impartial third party who assists the participants in reaching a mutually acceptable solution to their disputed issues. The mediator does not have the authority to overturn disciplinary notices, decide the outcome nor impose a resolution.

#### **Employee**

An individual employed by JMU.

#### **Mediation Coordinator**

The individual responsible for coordinating, implementing, and supervising all facets of the mediation and grievance programs administered by the Department of Human Resources for JMU.

#### **Two-Party Mediation**

Mediation of a dispute primarily between two employees, who may be co-workers or in a reporting relationship.

#### **Group Mediation**

Mediation of a dispute among several employees in a work unit such as a team, office, or department.

### **4. APPLICABILITY**

This policy applies to all university employees.

### **5. POLICY**

It is the policy of JMU to resolve work place disputes through non-adversarial means such as mediation whenever possible.

Participation in mediation will be voluntary. A request for mediation may be made by an employee or supervisor/department for assistance in resolving a work place dispute.

Supervisors are required to allow employees to participate in mediation proceedings. Every effort should be made by HR and the employees participating in the mediation to schedule the mediation as to not hinder operations. A mediation that is initially scheduled at a time when the supervisor feels that operations may be hindered will be rescheduled to a time that will not hinder operations.

## **6. PROCEDURES**

### **6.1 Mediation**

- A request for mediation must be made to Human Resources by contacting an HR Representative or the Mediation Coordinator.
- The Mediation Coordinator will contact the participants not more than (3) working days from the request and complete an initial assessment to determine the appropriateness of the situation for mediation.
- If both parties agree to attempt mediation, the mediation coordinator will schedule the first meeting and provide written notification to all participants of the date, location, and time of the mediation within one week of the agreement of both parties. The supervisor(s) will also be notified, to avoid hindering operations.
- At any time during the process, either party may withdraw from participation and the mediation effort will end.
- The Mediation Coordinator will select two mediators from a list of qualified university mediators.
- Once confirmed, the mediation will be held in a private, preferably neutral, location with a low potential for distraction.
- All parties must agree to extensions or changes of deadlines or additional meetings. The supervisor(s) must also agree to any extensions or changes of deadlines or additional meetings.
- All mediation sessions will have at least one mediator present. Two co-mediators will be present when possible.
- The Mediation Coordinator may attend mediation sessions for the purpose of evaluating the mediator and/or the mediation process. If the Mediation Coordinator is to attend, the participants will be informed in advance.
- A short "pre-mediation" meeting with the mediators and the mediation coordinator to distribute case information and discuss any pertinent information such as policies pertaining to the situation will be scheduled.
- The mediator will document and summarize pertinent information and agreements reached in the mediation. A draft of this information will be sent to the Mediation Coordinator within two (2) working days for review. The Coordinator will respond to the mediator within two (2) working days. This agreement will become final and each participant will receive a copy of the final agreement no later than five (5) working days after the conclusion of the mediation.
- At the conclusion of the last mediation session, the mediator will ask all participants to complete the Mediation Process Evaluation Form.

### **6.2 Confidentiality**

Because the goal of mediation is to empower the participants to share information openly and honestly without fear of embarrassment or retaliation, the sessions are confidential. Thus, mediators and participants must treat as confidential all writings and all communications made before, during, or in connection with the mediation at all times.

Exceptions to confidentiality include: a) evidence of verbal or physical abuse or threats of bodily harm to self or others, evidence of violation of university policy or criminal activity, and evidence of sexual harassment b) specific information that participants agree to share outside the mediation; c) information shared during the mediation that is known or could be learned through other means; and, d) the final mediated agreement.

When members of management participate in mediation, they must assure the participants that no retaliation will result from participating in mediation. This includes ensuring that what is said during the mediation process is not used in any way against the participants before, during or after the mediation session. This assurance is critical to the process and enables the necessary open and honest discussion of the issues. This assurance will not apply to evidence of verbal or physical abuse or threats of bodily harm to self or others, evidence of violation of university policy or criminal activity, or evidence of sexual harassment.

### **6.3 Participants' Responsibilities/Confidentiality**

- At the beginning of the mediation session, the participants commit to keeping the contents of the mediation session confidential. The scope of the confidentiality should be discussed before the commitment is made.
- Disclosing the fact that mediation took place is not a breach of confidentiality.
- The mediator may not be called upon, at any time, by the participants of mediation as a witness in any administrative or legal proceeding, , except regarding the occurrence of the mediation, evidence of verbal or physical abuse or threats of bodily harm to self or others, evidence of violation of university policy or criminal activity, or evidence of sexual harassment.

## **7. RESPONSIBILITIES**

The Director of Human Resources is responsible for the consistent application of this policy.

The Director of Human Resources, as well as senior vice presidents, deans, directors, and department heads, are to ensure that employees are informed of this policy. Questions related to the application of this policy should be directed to staff members of Human Resources.

In addition, directors are responsible for their department's prompt, effective adherence to this policy.

## **8. SANCTIONS**

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

## **9. EXCLUSIONS**

Mediation is not available to resolve incidents involving allegations of university policy violations, criminal violations, or legal violations.

This policy does not apply to students or to student workers. Performance issues regarding student workers should be brought to the attention of the Student Work Experience Center.

## **10. INTERPRETATION**

The authority to interpret this policy rests with the President, and is generally delegated to the Director of Human Resources.

Approved by the President: June, 2008

Index Terms:

Mediation

Alternative Dispute Resolution