



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

March 27, 2023

VBA Letter 20-23-03

Director (00)

All VBA Services, Staff Offices, Regional Offices, and Centers

SUBJ: Veterans Benefits Administration Alternative Dispute Resolution Guidelines

VBA Letter 20-22-09, issued October 3, 2022, is rescinded.

1. PURPOSE

This letter directs all offices under Veterans Benefits Administration (VBA) to utilize Alternative Dispute Resolution (ADR) as a method to resolve workplace disputes or discrimination complaints.

2. SCOPE

ADR activities covered by this letter include:

- Title VII Complaints which affects employees, former employees, and applicants for employment; and
- External Civil Rights Complaints that primarily address Title VI complaints (or those discrimination complaints that are filed on the bases of race, color, or national origin in Federal programs conducted or funded by VA) and other similar statutes that address issues of discrimination such as Title IX of the Education Amendments of 1972, Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and various Presidential Executive Orders. External Civil Rights in particular covers those individuals that are Veterans (non- employees, former employees, and non-applicants), beneficiaries, family members, and fiduciaries.

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Appendix A-C outlines definitions, responsibilities, procedures, and various forms in support of ADR. VBA offices are encouraged to develop a local ADR plan in collaboration with their respective labor partners to address the specific circumstances and needs of the office.

3. GUIDELINES

VBA encourages all employees to use mediation and consider other forms of ADR to resolve discrimination complaints and workplace disputes regardless of position, grade, or the stage of disputes.

Management officials are mandated to participate in ADR if an aggrieved individual elects to pursue ADR. Exceptions to participating in ADR and guidance regarding management's responsibility to withdraw when ADR may appear inappropriate are outlined in Appendix A, Section III (B, C, and D).

4. AWARENESS TRAINING

Managers, supervisors, and employees can receive ADR training through the VA Talent Management System (TMS) using course number VA 4562653.

5. CONTACT INFORMATION

Questions should be directed to the Office of Resolution Management Diversity Inclusion (ORMDI) VBA EEO Liaison Office at: ORMVBAEEO Liaison@va.gov.

Additional information about Alternative Dispute Resolution can be obtained on the Department's website at: <https://www.va.gov/adr/>.

/s/

Joshua Jacobs
Senior Advisor for Policy,
Performing the Delegable Duties of the
Under Secretary for Benefits

APPENDIX A:

**VETERANS BENEFITS ADMINISTRATION
ALTERNATIVE DISPUTE RESOLUTION PROGRAM**

I. DEFINITIONS

A. Alternative Dispute Resolution (ADR): ADR is a group of processes used by specially trained neutral persons, who are not associated with the controversy, to help individuals resolve disputes. Forms of ADR include, but are not limited to, the following or any combination thereof: Facilitation, mediation, group facilitation, conflict coaching, arbitration, peer review, fact-finding, etc.

B. Mediation: Mediation is an ADR process in which a skilled, impartial third party, called a mediator, assists the parties in reaching a mutually agreeable resolution to a dispute by facilitating better communication, identifying interests, and helping explore possible solutions.

C. Neutral: An impartial third party, whether a coach, facilitator, or mediator, who assists the parties to manage conflict and resolve disputes. The neutral's role includes assisting the parties to identify issues, fostering joint problem-solving, and exploring mutually acceptable outcomes. The neutral is not a decision-maker and does not have the power to impose a decision on either party. Neutrals are individuals who should have no biases towards or against either party to a dispute or a relationship to either party that would present a conflict of interest.

II. ROLES AND RESPONSIBILITIES

A. Under Secretary for Benefits: Responsible for:

1. Ensuring that VBA employees have access to ADR and mediation as a method of resolving discrimination complaints and workplace disputes at the lowest level.
2. Directing VBA managers and supervisors to support, participate in, and encourage early dispute resolutions through the ADR process.

B. ORMDI VBA EEO Liaison Office: Reports to the Deputy Assistant Secretary of ORMDI and is responsible for complying with federal laws and implementing departmental policies and directives concerning VBA's ADR Program. Specifically, ORMDI VBA EEO Liaison Office will accomplish the following:

1. Provide advice and guidance to the Under Secretary for Benefits and other senior management officials on matters related to ADR.

APPENDIX A:

2. Serve on the VA ADR Working Group established pursuant to VA Directive 5978; and works collaboratively with intra- and interagency ADR groups to coordinate and optimize the use of Federal ADR resources.
 3. Provide aid to VBA offices to design and implement ADR programs to provide all employees with access to ADR services; and designs and coordinates the VA Central Office (VACO) ADR programs. Programs will comply with the objectives of VA's ORMDI ADR Plan. The ORMDI ADR plan is located at <https://www.va.gov/adr/>.
 4. Work with VBA offices to ensure accurate records are maintained consistent with departmental ADR policy.
 5. Ensure data relating to completed mediations are properly monitored and tracked into the VA ADR Tracker System.
 6. Serve as an information resource regarding ADR and mediation for VBA offices.
 7. Remain current on new regulations to ensure VBA's policy is compliant with federal laws supporting ADR.
 8. Coordinate ADR training for all employees and labor representatives and assists in developing trained and qualified mediators.
 9. Upon request, initiate action to assign mediators to represent ADR parties located in VACO fairly and equitably.
- C. VBA Directors: Responsible for establishing and supporting an ADR program within their respective offices that makes ADR available to all employees for the resolution of discrimination complaints and workplace disputes. The program should reflect individual cultures that will meet Regional Office (RO) needs. This will ensure, to the maximum extent practicable, labor representatives participate in the joint development and design of RO programs which reflects language consistent with collective bargaining agreements.

(NOTE: VACO Directors are responsible for ensuring effective management and implementation of the VACO ADR program designed by ORMDI. Resources for the VACO ADR program will be provided through ORMDI's VBA EEO Liaison Office)

APPENDIX A:

Additional responsibilities are as follows:

1. Encourage all managers, supervisors, and employees to utilize their internal ADR program to resolve workplace conflict at the earliest stage possible.
 2. Allocate adequate resources toward the development, maintenance, and ongoing evaluation of their local ADR programs.
 3. Work in collaboration with the EEO Program Manager (EEOPM) to implement an internal, local ADR program, which complies with the objectives of VA's ORMDI ADR Plan, located at [Designing a Mediation Program - Alternative Dispute Resolution \(ADR\) \(va.gov\)](#) and [VA Mediation Program Design Guide - Alternative Dispute Resolution \(ADR\)](#).
 4. Ensure the ADR program is designed and coordinated in a fair and neutral manner.
 5. Seek resolution of EEO complaints through settlement at any time during the pre-complaint (informal) and formal complaint stage whenever possible.
 6. Prior to ADR or EEOC Hearings, EEOPMs and/or Directors should work with Office of General Counsel (OGC) to secure pre-approval authority to offer the Aggrieved Person/Complainant's resolution options. Having pre-approval authority helps expedite settlement agreement negotiations and resolve complaints.
 7. Upon execution of a settlement agreement, forward by encrypted email, a copy of [VA Form 10185](#), Employment Disputes Settlement Concurrence and a copy of the settlement agreement to the EEO Manager at the facility where the complaint occurred.
- D. EEO Program Managers: EEOPMs have administrative oversight and responsibility for the ADR program which is critical to an effective ADR Program. Briefings will be held with their designated RO Director on its design, implementation, and operation. They will provide impartial advice to employees and their representatives on the ADR process. Responsible for coordinating mediations for discrimination complaints and workplace disputes. Their duties include facilitating the day-to-day operations of the ADR program and interfacing with various ADR elements throughout the Department. Additionally, they will supply unbiased guidance on how to effectively utilize the ADR process for successful results while performing the following responsibilities:

APPENDIX A:

1. Promotes the use of ADR as an effective alternative to resolving workplace disputes and provides education and awareness to facility employees regarding the facility's ADR program, the types of disputes appropriate for ADR, and the procedures for requesting ADR. Assists in resolving complaints during the pre-complaint informal and formal complaint stage whenever possible.
2. Upon request, initiate action in ROs to assign mediators to represent ADR parties fairly and equitably.
3. Works in collaboration with union officials, regional counsels, and other interested parties to promote positive working relationships.
4. Ensures the administration of an effective program, which meets the needs of the RO and its stakeholders and is compliant with applicable regulations and collective bargaining agreements.
5. Identifies and analyzes the full range of ADR issues, cases, policies, programs, procedures, and regulations to determine areas needing improvement. Develops, justifies, coordinates, and implements proposals for change.
6. Maintains accurate records of RO mediations and ensures that data relating to completed mediations are properly tracked and updated in the VA ORMDI ADR Tracker System.
7. Serves as a resource of information regarding ADR and mediation in the RO; assists in developing trained and qualified mediators; and coordinates local training efforts to include annual awareness training for all employees, managers, supervisors, and labor representatives.
8. Serves as liaison between the RO and ORMDI VBA EEO Liaison Office in connection with ADR and mediation.
9. Obtains concurrence from OGC on settlement agreements for legal sufficiency before the document is executed by the settlement authority.
10. Uploads copies of EEO settlement agreements and [VA Form 10185](#) documents to ORMDI's complaints tracking system. If unable to upload to the complaints tracking system, forward by encrypted email all documents to the ORMDI District Office having jurisdiction over the underlying complaint and to [ORMDI Settlement Pre-approval Email Address](#).

APPENDIX A:

11. Provides a copy of the settlement agreement to those with a need to know to implement the provision(s) in the agreement.
 12. Ensures VA Form 10091, FSC Vendor File Request, is properly coordinated between the complainant and the Facility Financial Office when there is a monetary payment.
 13. Monitors compliance with all settlement agreements. Ensures appropriate management officials are promptly notified of any delays or issues affecting compliance settlement agreement terms.
 14. Uploads copies of settlement agreement compliance documents to ORMDI's complaints tracking system. If unable to upload to the complaints tracking system, forward by email all documents to the ORMDI District Office having jurisdiction over the underlying complaint. All documents included in the compliance report must remove any Personally Identifiable Information (PII).
 15. Assists in resolving breach of settlement agreement allegations.
 16. Obtains and forwards settlement agreement compliance documents when a breach of settlement agreement is alleged to the ORMDI Chief of Policy and Compliance. All documents included in the compliance report must remove any PII. The documents should be forwarded to: [ORMDI OPC Email Address](#).
 17. Monitors compliance with all breach of settlement agreements and provides ORMDI, Outpatient Clinic copies of compliance documents.
- F. Labor Representatives: Labor representatives are encouraged to support the appropriate use of mediation and various other ADR processes as effective alternatives to resolving workplace disputes. VBA recognizes that at certain ROs the exclusive representative of employees covered by collective bargaining agreements may elect not to participate or allow their members to participate in the local ADR program. For bargaining unit employees, any settlement agreement reached using ADR must comply with the appropriate collective bargaining agreement.

III. MEDIATION PROCESS

- A. Mediation session must be scheduled upon notification that an aggrieved individual elected mediation in an EEO-related matter. Management is required to participate in mediation, with few exceptions, when the aggrieved or complainant of an EEO matter elected mediation. Parties are strongly encouraged to make every effort to complete the mediation process as early as possible.

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- B. In rare instances, indicators exist that may make the matter inappropriate for ADR. When the following indicators are present, the VBA RO or VBA Central Office EEOPM must conduct a case-by-case analysis to determine if the matter is appropriate for ADR. Those matters involving the following are generally deemed inappropriate for ADR:
 - 1. An indication of fraud, waste or abuse;
 - 2. An allegation of patient abuse (VHA use only);
 - 3. An allegation of criminal activity; and
 - 4. An investigation is being conducted in another forum other than EEO.

- C. If it is decided that ADR is inappropriate, a "Notice of Refusal to Offer Alternative Dispute Resolution," (Appendix B), must be completed and submitted to the appropriate EEOPM to be routed for approval through the appropriate channels as indicated on the enclosed form within five working days following the refusal to offer ADR.

- E. RO Directors cannot refuse to participate in ADR without approval from their respective District Director. VACO supervisors cannot refuse to participate in ADR without approval from their respective Program/Staff Office Director. Once approved a completed VA Form 0889c "Notice of Refusal to Offer ADR" must be forwarded to the ORMDI VBA EEO Liaison Office for case analysis and final determination on whether ADR is inappropriate.

IV. COMPLIANCE

- A. In accordance with the Elijah Cummings Act, Section 401(1)(2)(a)(b)(c) VBA officials will ensure the ADR process is not under the control of the Agency's Office of Human Capital or OGC (or the equivalent); is devoid of internal conflicts of interest and ensures fairness and inclusiveness within the agency and the efficient and fair resolution of complaints alleging discrimination (including retaliation).

- B. EEOC Management Directive 110, Chapter 3(III)(A)(9) states that the Responsible Management Official (RMO) or Agency Official directly involved in the case will not serve as the person with settlement authority. If the Facility Director or Other Key Official is the RMO, the settlement agreement should be signed by the District Director or someone at the next supervisory level with signature authority.

APPENDIX A:

V. SETTLEMENT PROCESS

- A. In accordance with EEOC MD-110, management must designate an individual to attend settlement discussions to participate in EEO ADR attempts. Management should include an official with settlement authority during all settlement discussions and at all EEO ADR meetings

(Note: The management official with settlement authority should not be the responsible management official or agency official directly involved in the case. This is not a general prohibition on those officials from being present at appropriate settlement discussions and participating, only that they are not the officials with the settlement authority). The probability of achieving resolution of a dispute improves significantly if the designated management official has the authority to agree immediately to a resolution reached between the parties. If an official with settlement authority is not present at the settlement or EEO ADR negotiations, such official must be immediately accessible to the agency representative during settlement discussions or EEO ADR.

- B. Monetary payments include the total amount of any payment(s) awarded in the settlement agreement (i.e., lump-sum, leave, back-pay, etc.). Additionally, the appropriate delegated authority must endorse and submit VA Form 10185 to undergo settlement pre-approval process in coordination with the OGC for all monetary payments over \$5,000; see Appendix C. Settlement of employment disputes resulting in monetary payments require clearance from the appropriate delegated authority; see Appendix D and E.

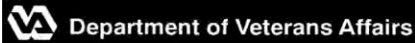
APPENDIX A:

VI. REFERENCES

- A. The Civil Rights Act of 1991
- B. Administrative Dispute Resolution Act of 1996
- C. Title 5 U.S.C. § 571-584
- D. VA Directive 5978, Alternative Dispute Resolution (February 7, 2013)
- E. Equal Employment Opportunity Commission (EEOC) 29 C.F.R. § 1614
- F. EEOC Management Directive 110
- G. Elijah Cummings Act, Section 401(1)(2)(a)(b)(c)
- H. Applicable national and local collective bargaining agreements

APPENDIX B:

VETERANS BENEFITS ADMINISTRATION
NOTICE OF REFUSAL TO OFFER ALTERNATIVE DISPUTE RESOLUTION FORM



NOTICE OF REFUSAL TO OFFER
ALTERNATIVE DISPUTE RESOLUTION

This Notice indicates that _____
(Name of Manager/Supervisor/Key Staff Official)
declined to offer Alternative Dispute Resolution (ADR) for EEO complaint number: _____
(ORM Case Number)
filed by _____
(Name of Aggrieved Person/Complainant)

The above named individual has been advised of VA's policy to offer ADR for all EEO related issues regardless of the stage of the complaint process.

Please indicate a reason for the refusal to offer ADR in the above-referenced complaint by checking one of the following boxes. This form must be completed and routed for approval and then uploaded into VA's ADRTracker by the ADR/EEO Program Manager within 5-calendar days following the refusal.

- An indication of fraud, waste or abuse
- An allegation of patient abuse
- An allegation of criminal activity
- An investigation is being conducted in another forum other than EEO

Additional Comments if needed



Signed by: _____ *(Date)*
 Manager/Supervisor/Key Staff Official

Approved by: _____ *(Date)*
 Manager/Supervisor/Key Official's Immediate Supervisor

Submitted by: _____ *(Date)*
 ADR/EEO Program Manager

APPENDIX C:

VETERANS BENEFITS ADMINISTRATION
EMPLOYMENT DISPUTE SETTLEMENT CONCURRENCE FORM

VA  U.S. Department of Veterans Affairs		EMPLOYMENT DISPUTE SETTLEMENTS CONCURRENCE	
<p>This document is protected by attorney-client privilege and attorney pre-approved work product doctrine.</p> <p>VA Administration or VA Program office are required to complete this form for settlement concurrence over personnel cases valued above \$K. This standard form may be also be utilized to assist VA Administrations track settlements of all values.</p>			
1. DECISION SUSPENSE DATE		2. FACILITY/OFFICE	
3. EMPLOYEE(S)		4. DC LAWS # (if applicable)	
5. EMPLOYEE(S) POSITION(S) AND GRADE(S)		6. EMPLOYEE(S) SUPERVISOR	
7. CASE NUMBER(S)			
8. ATTORNEY ASSIGNED		9. NAME OF JUDGE/ARBITRATOR/ETC.	
10. HUMAN RELATIONS/EMPLOYEE LABOR RELATIONS POINT OF CONTACT (POC)	11. NAME OF INITIATING SETTLEMENT OFFICIAL	12. TITLE OF INITIATING SETTLEMENT OFFICIAL	
13. TYPE OF CASE (Select one)			
<input type="text"/>			
14. CASE ANALYSIS ATTACHED (required by Administration)			
<input type="checkbox"/> YES <input type="checkbox"/> NO			
CASE OVERVIEW			
15. BRIEF DESCRIPTION (Additional space can be found on block 25)			
16. SETTLEMENT OFFICIAL		17. DATE	
			

VA FORM 10185
MAY 2012

APPENDIX C.:

VETERANS BENEFITS ADMINISTRATION
EMPLOYMENT DISPUTE SETTLEMENT CONCURRENCE FORM

18. IN CONSULTATION WITH VA ATTORNEYS (for litigation cases assigned to OGC) AND EPLR SPECIALISTS, WHAT WOULD CONSTITUTE A MINIMUM SETTLEMENT?





MONETARY ONE-TIME CASH PAYMENT <i>(Include amounts to all that apply)</i>	NON-MONETARY <i>(Check all that apply)</i>
a. COMPENSATORY DAMAGES _____ b. LUMP SUM PAYMENT _____ c. ATTORNEY FEES AND COSTS _____ d. OTHER _____ SPECIFY OTHER _____ SUBTOTAL _____ OTHER TERMS WITH MONETARY VALUES <i>(Exclude amounts to all that apply) (Future costs calculated based on XXXXX)</i> a. BACK PAY/FRONT PAY _____ -HIRE (Rate Pay) _____ -PROMOTION (Rate Pay) _____ -STEP INCREASE (Rate Pay) _____ b. LEAVE RESTORED/CONVERTED _____ c. TRAINING (Cost Requires SF 112) _____ SUBTOTAL _____ MONETARY TOTAL _____	<input type="checkbox"/> a. ACCOMMODATIONS <input type="checkbox"/> b. TRAINING (No SF 112 Required) <input type="checkbox"/> c. APOLOGY <input type="checkbox"/> d. DISCIPLINARY ACTIONS <input type="checkbox"/> MODIFIED <input type="checkbox"/> RESCINDED <input type="checkbox"/> e. PERFORMANCE EVAL MODIFICATION <input type="checkbox"/> f. NEUTRAL REFERENCE <input type="checkbox"/> g. REMOVALS RESCINDED/REINSTATEMENT <input type="checkbox"/> h. VOLUNTARY RESIGNATION/RETIREMENT <input type="checkbox"/> i. REASSIGNMENT <input type="checkbox"/> j. IMPROVED TERMS OF EMPLOYMENT <i>(i.e., work schedule change, supervisor reassignment, modified performance requirements, etc.)</i> <input type="checkbox"/> k. OTHER (Specify) _____
COMMENTS _____	<i>(Use Comments Section for more space)</i> <input type="checkbox"/> 1. LEAVE RESTORED TYPE _____ FROM TYPE _____ HRS _____ HOURS _____ TO TYPE _____ HRS _____ <input type="checkbox"/> 2. LEAVE RESTORED TYPE _____ FROM TYPE _____ HRS _____ HOURS _____ TO TYPE _____ HRS _____ <input type="checkbox"/> 3. LEAVE RESTORED TYPE _____ FROM TYPE _____ HRS _____ HOURS _____ TO TYPE _____ HRS _____

19. WHAT IS THE PROPOSED SETTLEMENT AMOUNT YOU ARE REQUESTING (which will represent a maximum amount you are authorized to negotiate, understanding negotiations may result in a lower amount)

MONETARY ONE-TIME CASH PAYMENT <i>(Include amounts to all that apply)</i>	NON-MONETARY <i>(Check all that apply)</i>
a. COMPENSATORY DAMAGES _____ b. LUMP SUM PAYMENT _____ c. ATTORNEY FEES AND COSTS _____ d. OTHER _____ SPECIFY OTHER _____ SUBTOTAL _____ OTHER TERMS WITH MONETARY VALUES <i>(Exclude amounts to all that apply) (Future costs calculated based on XXXXX)</i> a. BACK PAY/FRONT PAY _____ -HIRE (Rate Pay) _____ -PROMOTION (Rate Pay) _____ -STEP INCREASE (Rate Pay) _____ b. LEAVE RESTORED/CONVERTED _____ c. TRAINING (Cost Requires SF 112) _____ SUBTOTAL _____ MONETARY TOTAL _____	<input type="checkbox"/> a. ACCOMMODATIONS <input type="checkbox"/> b. TRAINING (No SF 112 Required) <input type="checkbox"/> c. APOLOGY <input type="checkbox"/> d. DISCIPLINARY ACTIONS <input type="checkbox"/> MODIFIED <input type="checkbox"/> RESCINDED <input type="checkbox"/> e. PERFORMANCE EVAL MODIFICATION <input type="checkbox"/> f. NEUTRAL REFERENCE <input type="checkbox"/> g. REMOVALS RESCINDED/REINSTATEMENT <input type="checkbox"/> h. VOLUNTARY RESIGNATION/RETIREMENT <input type="checkbox"/> i. REASSIGNMENT <input type="checkbox"/> j. IMPROVED TERMS OF EMPLOYMENT <i>(i.e., work schedule change, supervisor reassignment, modified performance requirements, etc.)</i> <input type="checkbox"/> k. OTHER (Specify) _____
COMMENTS _____	<i>(Use Comments Section for more space)</i> <input type="checkbox"/> 1. LEAVE RESTORED TYPE _____ FROM TYPE _____ HRS _____ HOURS _____ TO TYPE _____ HRS _____ <input type="checkbox"/> 2. LEAVE RESTORED TYPE _____ FROM TYPE _____ HRS _____ HOURS _____ TO TYPE _____ HRS _____ <input type="checkbox"/> 3. LEAVE RESTORED TYPE _____ FROM TYPE _____ HRS _____ HOURS _____ TO TYPE _____ HRS _____

APPENDIX C.:

VETERANS BENEFITS ADMINISTRATION
EMPLOYMENT DISPUTE SETTLEMENT CONCURRENCE FORM

OBTAIN THE CONCURRENCE OF THE SENIOR EXECUTIVE(S) IN YOUR CHAIN OF COMMAND AS APPLICABLE	
20a. FIRST LEVEL SES SUPERVISOR/ DELEGATED AUTHORITY <input type="checkbox"/> CONCUR <input type="checkbox"/> NON-CONCUR	20b. COMMENTS
20c. SIGNATURE 	20d. DATE
21a. SECOND LEVEL SES SUPERVISOR <input type="checkbox"/> CONCUR <input type="checkbox"/> NON-CONCUR	21b. COMMENTS
21c. SIGNATURE 	21d. DATE
22a. THIRD LEVEL SES SUPERVISOR <input type="checkbox"/> CONCUR <input type="checkbox"/> NON-CONCUR	22b. COMMENTS
22c. SIGNATURE 	22d. DATE
23a. FOURTH LEVEL SES SUPERVISOR <input type="checkbox"/> CONCUR <input type="checkbox"/> NON-CONCUR	23b. COMMENTS
23c. SIGNATURE 	23d. DATE
24. ALL EMPLOYEE DISPUTE SETTLEMENTS WHICH EXCEED \$5,000 MUST BE PRE-APPROVED BY THE PRINCIPAL DEPUTY AS OR HIGHER PRIOR TO THE COMMENCEMENT OF NEGOTIATION SETTLEMENT DISCUSSIONS. SEE THE PRE-APPROVAL SETTLEMENT SES CONCURRENCE AND APPROVAL AUTHORITY ATTACHMENT B FOR SIGNATURE AUTHORITIES. <input type="checkbox"/> DISAPPROVED. NO MONETARY SETTLEMENT IS AUTHORIZED <input type="checkbox"/> APPROVED AS REQUESTED <input type="checkbox"/> APPROVED WITH THE FOLLOWING COMMENTS/PARAMETERS:	
25. BRIEF DESCRIPTION (Continued)	

APPENDIX C.:

VETERANS BENEFITS ADMINISTRATION
EMPLOYMENT DISPUTE SETTLEMENT CONCURRENCE FORM

PRE-APPROVAL SETTLEMENT SES CONCURRENCE
AND APPROVAL AUTHORITY

IMPORTANT: SES officials signing concurrences and/or approvals must not be named as RMO.

Table 1: Use this table when SES in management chain is not named as RMO

SES Named as RMO	1st Level Concurrence	2nd Level Concurrence	Approval
No	SES Exec Dir	N/A	PDAS
No	ADAS	DAS	PDAS
No	DAS	N/A	PDAS

Table 2: Use this table when SES in management chain named as RMO

SES Named as RMO	1st Level Concurrence	2nd Level Concurrence	Approval
ADAS named as RMO	DAS	N/A	PDAS
Exec Dir/DAS named as RMO	PDAS	N/A	AS
PDAS named as RMO	N/A	N/A	AS

Table 3: NCA SES Concurrence and Approval

	Initiating Official	1st Level Concurrence	2nd Level Concurrence	Approval
Field	Settlement Official	District Director	Executive Director, Cemetery Operations	Principal Deputy Under Secretary for Memorial Affairs
Central Office ¹	Settlement Official	SES Supervisor	Deputy Under Secretary for Memorial Affairs	Under Secretary for Memorial Affairs

¹ Includes field processing units

Table 4: VHA SES Concurrence and Approval

	Initiating Official	1st Level Concurrence	2nd Level Concurrence	3rd Level Concurrence	Approval
Medical Center Director (For Field Only)	Settlement Official	Network Director	Deputy Under Secretary for Health for Operations Mgmt.	Principal Deputy Under Secretary for Health	Principal Deputy Under Secretary for Health
Field	Settlement Official	Network Director	Deputy Under Secretary for Health for Operations Mgmt.	Principal Deputy Under Secretary for Health	Principal Deputy Under Secretary for Health
Central Office ¹	Settlement Official	Program Chief Officer	Deputy Under Secretary for Health	Principal Deputy Under Secretary for Health	Principal Deputy Under Secretary for Health

Table 5: VBA SES Concurrence and Approval

	Initiating Official	1st Level Concurrence	2nd Level Concurrence	Approval
Field	Settlement Official	District Director	Deputy Under Secretary for Veterans Benefits for Field Operations	Under Secretary for Veterans Benefits
Central Office ¹	Settlement Official	Service/Office Director	Deputy Under Secretary for Veterans Benefits/Chief of Staff	Under Secretary for Veterans Benefits

Table 6: VACO SES Concurrence and Approval

	Initiating Official	1st Level Concurrence	2nd Level Concurrence	Approval
Field	Settlement Official	Deputy Assistant Secretary	N/A	Principal Deputy Assistant Secretary
Central Office ¹	Settlement Official	Principal Deputy Assistant Secretary	N/A	Assistant Secretary

Table 7: For Other Key Officials with VA SES Concurrence and Approval

	Initiating Official	1st Level Concurrence	2nd Level Concurrence	Approval
Central Office	Settlement Official	1st Level SES	2nd Level SES	Chairman/Executive Director (SES)

(For a fillable PDF Settlement Concurrence Form click here: [VA Form 10185](#))

APPENDIX D:

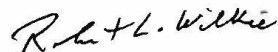
SECRETARY MEMORANDUM
EMPLOYMENT DISPUTE SETTLEMENTS

Department of
Veterans Affairs

Memorandum

Date: **APR 26 2019**
From: Secretary (00)
Subj: Employment Dispute Settlements (VIEWS 232905)
To: Under Secretaries, Assistant Secretaries, and Other Key Officials

1. I expect managers at every level to address employment disputes, including equal employment opportunity complaints, allegations of prohibited personnel practices such as whistleblower retaliation and appeals of removals and other adverse actions, in the most cost-effective manner, consistent with the goal of building and sustaining high-performing teams to achieve excellent outcomes for Veterans at a good value to taxpayers.
2. I understand many judges require us to engage in settlement negotiations, but I am concerned we are paying too much to settle too many of these cases.
3. Effective immediately, before settling an employment dispute resulting in monetary payment over \$5,000, the settlement authority must receive clearance for the settlement amount by the Under Secretary, Assistant Secretary, or equivalent Senior Executive within the organization in which the dispute occurs.
4. The clearance authority specified in paragraph three may be delegated, in writing, to the Deputy Under Secretary, Deputy Assistant Secretary, or equivalent Senior Executive in which the dispute occurs. In the Administrations, such authority may be further delegated to the Network Director of Veterans Integrated Service Networks, Regional Office Directors, or their equivalents. I expect that the delegator of such authority maintains oversight of clearances issued by the individuals in this paragraph.
5. The memorandum issued on June 30, 2017, by former Secretary Shulkin is hereby rescinded.
6. I direct the Assistant Secretary for Human Resources and Administration to work with the General Counsel and issue, within 60 days, guidance and procedures for implementing this memorandum.



Robert L. Wilkie

APPENDIX E:

**VBA DELEGATION OF EMPLOYMENT DISPUTE SETTLEMENT
APPROVAL AUTHORITY**

**Department of Veterans
Affairs**

MEMORANDUM

Date: January 6, 2023

From: Senior Advisor for Policy, Performing the Delegable Duties of the Under
Secretary for Benefits (20)

Subj: Delegation of Employment Dispute Settlement Approval Authority

To: All VBA Business Lines and Staff Offices

1. In accordance with the guidelines outlined in the memorandum dated April 26, 2019, *Employment Dispute Settlements*, effective immediately upon signature, before settling an employment dispute resulting in a monetary payment, the settlement authority must receive clearance from the appropriate delegated authority based on the amount of the monetary payment.
2. The following delegation authorities are authorized for settling an employment dispute resulting in a monetary payment:
 - RO/VACO Directors = up to \$50,000
 - District Directors = up to \$100,000
 - Deputy Under Secretaries/Chief of Staff = up to \$150,000
 - Principal Deputy Under Secretary = up to \$200,000
3. Approval authorities are responsible for maintaining oversight of the clearances issued by the individuals at the level below.
4. This delegation will expire two (2) years after the date delegated, unless amended or rescinded prior to the two (2) year expiration date.


Joshua Jacobs