

03.1002 Voluntary Alternative Dispute Resolution System

1. Purpose. The purpose of alternative dispute resolution (ADR) is to increase faculty, staff, and student options in addressing their UNT System -related disputes and to further the voluntary resolution of problems at the earliest opportunity. However, nothing in this policy shall preclude the UNT System Office of Equity and Diversity from investigating allegations of discrimination in accordance with UNT System Administration policy.
2. UNT System-related disputes. It is the policy of this institution that UNT System -related disputes be addressed in a manner that encourages the resolution of conflict and advances the opportunity for productive learning and work relationships. Through the Voluntary Alternative Dispute Resolution System, faculty, staff and students have access to voluntary, informal means of resolving UNT System-related disputes. The UNT System will honor the principles of academic freedom as specified in the faculty handbooks of component institutions.
3. Mediation and problem-solving. To resolve conflicts at the earliest possible stage and to address problems with the least damage to future learning and working relationships, assistance with mediation and collaborative problem-solving is available for faculty, staff, and students.

Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. A mediator may not impose his or her own judgment on the issues for that of the parties. In cases involving a tenured faculty member's termination on the basis of post-tenure review, the UNT System 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 (policy 15.1.2.4) 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.

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.

4. Responsibilities. The Human Resources Departments of the System component institutions will coordinate and support the activities of the Voluntary Alternative Dispute Resolution System, including the preparation and maintenance of necessary records. It will maintain a current list of mediators and problem solvers who 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. An advisory committee for voluntary alternative dispute resolution will be appointed by the Chancellor to oversee the Voluntary ADR program and assist the Human Resources Departments in the screening, selection and training of mediators and problem solvers.
5. Procedures. UNT System employees interested in seeking mediation services may contact the System Office of the Associate Vice Chancellor for Equity and Diversity or a component institution's Human Resources Department for information on setting up a session.
6. Stipulations. Issues specifically exempt from mediation include:
 - a. faculty promotion and tenure disputes (except those involving termination under the post-tenure review policy); and
 - b. non-UNT System disputes (except for designated student problems, as defined by policies and procedures of the UNT Office of the Student Legal Advisor).

Resolutions achieved through mediation or problem solving cannot dictate the expenditure or reallocation of university human, financial, or physical resources without proper approval. Nothing in this policy should be interpreted to allow any violation of law or university 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 Handbooks of the System component institutions. Formal grievance procedures for all other disputes may be suspended for specific periods to allow for mediation.

7. Time Requirements.

- a. On the day that both parties in a dispute file a request for mediation the formal 60- day Alternative Dispute Resolution timeline begins.
- b. 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.
- c. Except in extenuating circumstances, no subsequent suspension or abeyance period shall be granted to provide for alternative dispute resolution procedures.
- d. If one enters the Alternative Dispute Resolution process after first starting a formal complaint and the dispute is not resolved upon the completion of a 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.
- e. The applicable time requirements of the formal appeals process will recommence as of the point of suspension.

8. Agreements. A mediated agreement is between the individuals to a dispute who participate in the mediation process and sign the mediation agreement.

- a. Mediators will seek to assist the parties in placing their agreements in writing on a UNT Mediated Agreement Form.
- b. 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 UNT System Policy Nondiscrimination/Equal Employment Opportunity and

Affirmative Action, the other party may seek the intervention of the UNT System Office of Equity and Diversity.

The Associate Vice Chancellor for Equity and Diversity may work with the UNT System administration to assist with enforcement of the mediation agreement, or institute an investigation of the underlying complaint. (See UNT System Office of Equity and Diversity Investigation Procedures and UNT System Policy Information and Procedural Guidelines for Pursuing and Resolving a Complaint of Discrimination.)

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 UNT System's Staff Complaint and Grievance policy.

9. 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.
 - a. The UNT System component institutions Human Resources Departments will not retain any written record from the mediation process except the successful mediation agreement, which will be made available to the parties upon request.
 - b. The mediators will discard all other documents and notes as soon as the mediation process had been concluded.
 - c. 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.

Reference: Performance Evaluation of Tenured Faculty, V.T.C.A., Education Code Sec.51.942 (d).

Approved:
Effective:
Revised: