

ARTICLE II EARLY COMPLAINT RESOLUTION AND RAPID RESOLUTION PROCESS

SECTION 201 EARLY COMPLAINT RESOLUTION

The Early Complaint Resolution (ECR) process facilitates the resolution of complaints by providing an early opportunity for the parties involved to voluntarily resolve the complaint allegations. OCR will consider whether a complaint is appropriate for ECR, as early as possible, including during the evaluation. When OCR determines that a complaint is appropriate for ECR, it shall contact the parties to offer this resolution option.

(a) **OCR's Role**

- To serve as an impartial, confidential facilitator between the parties.
- To inform the parties of ECR procedures, establish a constructive tone, and encourage the parties to work expeditiously and in good faith toward a mutually acceptable resolution.
- To review the allegations that OCR has accepted for investigation with the parties and assist both parties in understanding the pertinent legal standards and possible remedies.
- To facilitate a discussion between the parties regarding possible actions that the parties may consider in working toward a resolution.
- To offer assistance, as appropriate, with regard to reducing any resolution to writing. When an agreement is reached, the parties are informed that OCR will issue a closure letter reflecting the resolution of the complaint by agreement of the parties.

(b) **Role of the Participants**

- To participate in the discussions in good faith.
- To consider offers or suggestions with an open mind and to work constructively toward a mutually acceptable resolution.
- To implement any agreement in good faith.

OCR does not sign, approve, endorse and monitor any agreement reached between the parties.

SECTION 202 INITIATION AND TERMINATION OF THE ECR PROCESS

When OCR determines that ECR is appropriate and the complainant and the recipient are willing to proceed with this resolution option, OCR will designate staff to facilitate an agreement between the recipient and complainant. To the extent possible, staff assigned to conduct ECR of a complaint shall not be staff assigned to the investigation of that complaint.

An Agreement to Participate in ECR must be reviewed and either signed or verbally agreed to by the complainant and recipient. In circumstances where verbal agreement is obtained, the ECR facilitator shall send a letter or electronic mail to the parties confirming the Agreement.

OCR has the discretion to suspend its investigation for up to 30 calendar days to facilitate an agreement between the parties. If an agreement has not been reached, OCR will resume its investigation if it had been suspended.

SECTION 203 CONFIDENTIALITY OF THE ECR PROCESS

A Confidentiality Agreement must be reviewed and signed or verbally agreed to by the ECR facilitator and the parties to the ECR, (the complainant or complainant's representative and the recipient or recipient's representative). In circumstances where verbal agreement is obtained, the ECR facilitator shall send a letter or electronic mail to the parties confirming this Agreement.

In order to maintain confidentiality of the ECR process, any notes taken during ECR by the facilitator and/or any records or other documents offered by either party to the facilitator during ECR will be kept in a separate file and will not be shared with the staff member(s) assigned to investigate the complaint.

SECTION 204 SUCCESSFUL CONCLUSION OF ECR

At the conclusion of ECR, OCR will obtain a copy of a statement that the allegation(s) has been resolved, signed by the complainant, or a copy of any agreement that has been signed by the parties. Once resolution of any allegation has been obtained, OCR will notify the parties in writing that the allegation(s) has been resolved; other outstanding issues, if any, are to be resolved through the investigation and resolution process. See CPM Article III. A copy of the ECR agreement between the parties will be attached to the closure letter.

SECTION 205 BREACH OF ECR AGREEMENTS

OCR will not monitor the agreement, but will inform the parties that if a breach occurs, the complainant has the right to file another complaint. If a new complaint is filed, OCR will not address the alleged breach of the agreement. Instead, OCR will determine whether to investigate the original allegation. When making this determination, OCR will consider the nature of the alleged breach, its relation to any alleged discrimination and any other factors as appropriate. To be considered timely, the new complaint must be filed either within 180 calendar days of the date of the last act of alleged discrimination or within 60 calendar days of the date the complainant obtains information that a breach occurred, whichever date is later.

SECTION 206 INVESTIGATIVE DETERMINATION WHEN ECR IS NOT ACHIEVED

OCR will monitor the process of ECR to ensure adequate time for completion of the investigation in the event that ECR is unsuccessful. Where ECR is unsuccessful, investigation must proceed to ensure completion in accordance with case processing procedures.

SECTION 207 RAPID RESOLUTION PROCESS (RRP)

The Rapid Resolution Process (RRP) is an expedited case processing approach that can be utilized in substantive areas determined by OCR to be appropriate for such resolution. RRP provides an opportunity to resolve complaints and to obtain information and make determinations early. The outcomes in all RRP cases must meet OCR's standards for legal sufficiency. Any resolution agreement reached through RRP must be aligned with the allegations and issues in the complaint deemed appropriate for resolution pursuant to RRP. See CPM Article III.

Once OCR has received any necessary signed Consent Form from the complainant (see CPM Section 103) and has determined that the complaint is appropriate for RRP, OCR will promptly attempt to resolve the complaint and obtain information necessary to make a compliance determination. OCR may contact a

recipient prior to sending a letter of notification or after sending a letter of notification to determine if the recipient is interested in immediately resolving or has taken action to resolve the complaint allegation(s).

In those substantive areas determined by OCR, RRP may be used to resolve complaints under the following circumstances:

- (a) Where a recipient has already taken action that will resolve the complaint, the complaint may be resolved without an agreement where appropriate relief is verified and the relief does not require monitoring by OCR. Under this circumstance, OCR will issue a closure letter.
- (b) Where a recipient has indicated that it is willing to take action in the future to resolve the complaint, or the recipient has already taken action that requires monitoring, the complaint may be resolved by obtaining a resolution agreement, the implementation of which OCR will monitor. See CPM Section 304. Under this circumstance, OCR will issue a resolution letter.
- (c) Where OCR obtains sufficient information from the recipient to make a compliance determination pursuant to CPM Section 303, OCR will issue a letter of finding pursuant to CPM subsection 303(a) or OCR will issue a letter of finding and obtain a resolution agreement pursuant to CPM subsection 303(b), the implementation of which OCR will monitor.

For cases in RRP, the Enforcement Office must ensure expeditious completion in accordance with case processing procedures.