



**(EDITOR'S NOTE: THIS GROUP IS THE FMCS  
L-M COMMITTEE WHICH MEETS QUARTERLY.)**

**FEDERAL MEDIATION AND CONCILIATION  
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## **FMCS Field Partnership Council Meeting Minutes August 19 – 20, 2014**

**Managers: Allison Beck, Scot Beckenbaugh, Lane Harstad, John  
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**Mediators: Gilbert Escudero, Bill Gill, Clint Hart, Jerry Hughes,  
Kathleen Murray-Cannon, Keith Norton, Mike Salmon**

**Old Business**

**1. Published Phone Numbers. The Agency's policy on mediator  
telephone accessibility to our customers is set forth in the  
proposed revisions to FMCS Directive 5202. Mediator Hiring,  
Promotion & Transfer. Specifically, section 4(e) provides that**

“Mediators’ telephone numbers must be listed, at their own expense, in a manner in which the number is generally available to the public in the metropolitan area in which the official duty station is located.”

New Business – State of the Agency

### *Acting Director’s Update*

1. Hiring. Total new hires: 15 new mediators (field mediator), GS 13; 1 new ADR developmental mediator. FMCS has a few vacancies yet to fill. The current FTE mediator count (mediator working full caseloads) is 147. We do anticipate future retirements and the Agency remains engaged in ongoing recruiting. A diverse group of qualified candidates remains an important priority. Contrary to long-standing agency practice, field mediator and field manager’s names have been appearing as listed “neutral” references on applications. In order to correct the inappropriate utilization of FMCS Mediators or Managers as listed references on the application for mediator positions, the application will be modified to reflect that the “neutral” references provided should exclude FMCS personnel.

2. Budget. Our budgetary position is sound. For the next fiscal year, we are likely to have a continuing resolution at the end of September. Sequester remains a future possibility, if budget agreements cannot be reached. The current travel budget for field operations is within allotted resources. The administration announced that there will not be a per diem increase in the next fiscal year.

3. CBM, RDT, GM, EAO, RMB. Case numbers are down across service delivery areas due to multiple factors including mediator vacancies, lost month due to government shutdown, and lack of budgetary certainty in the federal government. Unrelated to these

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factors is the level of intake of CBM cases this fiscal year. We

are currently over 2,000 cases below last years' intake level.

#### 4. IT Update.

- a. Voucher System Upgrade. Reports are being finalizing with Budget and Finance. The plan is for the new voucher system to be fully implemented has been pushed back to end of calendar 2014 for training and implementation due to unforeseen technical issues.
- b. Arbitration System Upgrade. The new system is in the final stages. This has been pushed back to end of calendar 2014 for training and implementation due to unforeseen technical issues
- c. Intranet Site Upgrade. This Mediator Resource Center will be upgraded and IT is working with Education and Training regarding both the timing of the upgrade and the training requirements. The Intranet site will launch in January 2015. Much of the pre-work for the resource center work is being done now and should launch shortly after the intranet site itself. This is a content quality issue, not just a content migration issue.
- d. Annual Security Refresher. There will be a 20-30 minute, self-paced, online training through the Intranet site. Email was sent out on September 26 and the training is now ongoing.
- e. Windows 7 Upgrades. We are currently at about 45% complete agency wide. There was a delay due to laptop order problems (see next item). We are taking advantage of sub-regions as they have their regional meetings (E01, E02, E05 and W10 have been completed, E03 and E04 scheduled for Dec. 2014). We will be working with DMS's in W06, W07, W08 and W09 to complete this process as soon as can be managed. 50% of the national office upgrades have been completed (some legacy application issues). Individuals are being upgraded as they have

problems with their computers and we have upgraded 15-20 throughout the other sub-regions. We will be actively working to complete all computers by early calendar 2015. A quick-tips sheet will be distributed and IT will provide one-on-one training as necessary.

- f. Laptop Upgrades. New laptops were ordered and had to be returned due to improper configuration. We have received the correct models and will be replacing E6400 and E6410 model laptops as we can schedule them. Also as part of the Windows 7 upgrade process. This will be ongoing the entire year.
- g. Other Things. Several field office locations will be moving to different physical space. IT is working with the DMS' and mediators to move/update the data lines & phones. Phone system upgrades are tentatively planned across all FMCS offices but will be scheduled to ensure no service disruption.
- h. Next Year. IT's plans for next year include: launch the intranet web site, Launch new Arbitration application, launch new Voucher system (on and Off-line), refresh of resources center on new intranet, Launch new public web site, Migrate E-

Rooms access to new web servers, cloud storage and file sharing pilot, document management and retention, ongoing office moves, ongoing data line upgrades, network hardware upgrade.

### *Deputy Director's Update*

1. International Work. The Agency continues to experience an increase in requests for International Training programs. While our Interagency Acquisition Agreement (IAA) with the Department of State has expired, the Department of Labor's Bureau of International Labor Affairs (ILAB) has asked us to

deliver labor conflict assessment and training services in a number of countries, including Haiti, Honduras, Sri Lanka, Burma, Bangladesh and Morocco. As reflected in the Minutes from the April 2014 Partnership Meeting, international assignments remain at the discretion of the Director. In addition, mediators considered for such assignments normally must have an overall Exceeds performance rating and sustained Exceeds in RDT. They must be willing to travel to demanding regions of the developing world, must be prepared to do significant preparation and trip follow-up, must file detailed financial reports and summary trip reports, and must work collaboratively with assigned mediator partners and the NO ADR Department.

2. ADR Department. ADR Services being provided by both the ADR Department and the field continue to evolve as conflict resolution needs and models change in the federal government and FMCS services for process-based traditional employment mediation decreases. The following summarizes the efforts of the ADR Services Department to meet these shifting needs:

a. Skills Development. Both the national ADR mediators and the field are responding to the increased call for mediation and conflict resolution skills development in the federal government.

i. With the federal workforce shifting in both size and demographics, there is an increased need for mediation skills training for federal agency neutrals. To this end, there have been several 40-hour mediation skills courses provided through our ADR Services both at the agency level (GSA, Treasury, and IRS) and through partnerships with the Federal Executive Boards in Dallas, Philadelphia, and Colorado.

ii. Agencies are also focusing on enhancing their dispute resolution skills sets in areas beyond traditional mediation. The ADR Services Department has been assisting both the Federal Labor Relations Authority and the Occupational Safety and Health Administration's Whistleblower Program

adapt mediation techniques to their role which includes enforcement and regulatory functions. To accomplish this, 3-day training programs in Advanced Dispute Resolution Skills were delivered in the 7 regions of FLRA's Office of General Counsel (DC, Denver, San Francisco, Dallas, Boston, Atlanta, and Chicago) and two 3-day programs were delivered in DC for OSHA to equip their Early Resolution Specialists with the skills and techniques to help reduce the need for litigated outcomes.

b. Partnering with OPM and the Federal Executive Boards (FEBs). The ADR Services Department, working with OPM, the agency that oversees Federal Executive Boards across the country, developed a Memorandum of Understanding that details the process for engaging FMCS trainers for ADR Skills programs. OPM's interest was in eliminating the need for FEBs to do direct financial transactions for such programs, and FEBs were seeking the most efficient and economical method for supporting their Shared Neutral's programs. As part of the roll-out process, the ADR Services Director has been conducting a series of live webinar overviews for both FMCS and FEB and created a "5-Easy Steps" guideline for field participants to follow. (See Attachment 1.)

c. Institutional Knowledge Transfer: Negotiated Rulemaking and Public Policy Facilitation. As our most experienced mediators with Negotiated Rulemaking and Public Policy Facilitation expertise retire, it became apparent that the Agency had a critical need to ensure that the next generation of mediators is prepared to meet our statutory role in negotiated rulemaking. A Reg-Neg task force was created to collect materials, prepare instructional binders and conduct outreach to secure Reg-Neg opportunities for our field staff. As a result, the ADR Services Department has been engaged by various federal agencies, councils, commissions, and task forces to provide expert facilitation and convening services. Connected with these efforts, professional development in the form of co-facilitation by field and ADR staff is being utilized to build our capacity in this area. Additionally, a

resource manual and training program have been developed which will be delivered for the first time to mediators both live in DC and via Adobe Connect on the fundamentals of negotiated rulemaking and multi-party/stakeholder facilitation skills. We are currently working with the Department of Energy's Office of Energy Efficiency and Renewable Energy, the Department of Transportation's Surface Transportation Board, VISTA, and the Northeast Corridor Commission.

d. Increased Demand for Web-Based Services. With tight travel budgets, the new reality in federal government agencies will be to continue seeking the most efficient and economical means for meeting their training and dispute resolution needs. The FMCS ADR Services Department is responding by building our internal capacity to deliver such services using Adobe Connect. Both ADR and Field mediators are actively engaged in delivering services using this interactive platform for the National Park Service's New Superintendent's Academy, the National Park Service Leadership Development Group, and the FLRA. Additional webinar programs are under development for the Social Security Administration and the Environmental Protection Agency. Additionally, the ADR Services Department was recently asked to provide their newest offering, *The Art and Science of Inquiry* as a regular part of the National Park Service New Superintendent's Academy professional development curriculum.

e. Enhanced Focus on Innovative and Early Resolution ADR Techniques. There is an increased focus and demand for the use of preventive techniques within the federal ADR community that has led to the development, use, and demand for more innovative early resolution techniques aimed at reducing the occurrence of formal complaint process filing. To meet these needs, the ADR Services Department has been contracting with agencies such as the U.S. Forest

Service and the U.S. Treasury's Office of the Comptroller, to provide conflict facilitation, facilitated dialogues, and other

preventive early resolution services.

3. Education & Training. This Department continues to provide extensive support to ADR and international training work. The Director and staff have worked hard to make materials more polished and professional, with a consistent format reflecting an FMCS “style.” Other initiatives include:

- a. New Mediator Training. This is set to start the week of October 20<sup>th</sup> in Washington DC. The second week of training is scheduled for the week of November 17 also in Washington, DC and will cover Collective Bargaining Mediation. Exact dates for the RDT, Facilitation, and ADR weeks have not been set at this time. Mike Franczak was tapped to be the class mentor for this group.
- b. Field Administrative Assistants. Bonnie Chernikoff recently conducted a needs assessment on behalf of E&T to see how we may better assist the AA’s in conducting their jobs as well as continuing their development. Currently we are waiting to hire a new team member who will be in charge of looking at the data and providing assistance to these critical positions.
- c. FMCS Grants Program. The Department is currently designing and developing tools and online training for our customers who may wish to apply for FMCS grants. FMCS received appropriations in 2014, and hopes to receive additional funding in FY 2015.
- d. National Office Staff Training. Currently, a needs-analysis has been implemented, including manager interviews and employee focus groups, to determine an appropriate program of training and professional development for National Office staff.
- e. Institute. The FMCS Institute for Conflict Management continues to recover since the lull following the October

2013 government shut-down. Ten programs will be delivered by the end of the fiscal year, which is at the lower end of the average offerings, but commendable given the challenges of the shutdown. Aside from piloting a Generational Differences course, and a “Consciously Competent Mediator” program, the Institute is piloting its first webinar on September 22 on the topic of bullying. Waitlists for many courses are continuing to grow and we anticipate being completely back to a normal schedule in FY 2015. Field mediators are requested to advise their customers of Institute offerings.

- f. Generational Differences. The working group has completed materials on this subject. In the next few months, we anticipate E&T and mediators from the working group to conduct webinars to guide the field through the updated materials.
- g. EO13522. E&T Director Heather Butler continues to serve an active role on the Problem Solving Resolution sub-committee, working with other agencies and federal unions to develop resources and tools for the implementation of the Executive Order. The most recent products include a set of FAQ’s on PDI, an

interactive model on PDI Outcomes, as well as checklists for Unions and Management to guide them through the process. These tools, plus others, are available on the National Council’s website <http://www.lmrcouncil.gov/>. Mediators are encouraged to review these materials and advise their federal sector customers of their availability.

- h. Other. E&T is currently conducting interviews for an open position, and hopes to hire soon so they can continue to offer good services to FMCS mediators and National Office staff.

#### New Business – Agenda Items

1. Draft Policy Directives. 8101, 8102, and 8103 (See

- Attachment 2). A full review and discussion of the proposed directives was held. Consensus was not sought due to additional pending reviews from other sources in the Agency. Directives will not be implemented until all reviews have been completed and the Partnership has had an opportunity to review final drafts. \*Consensus recommendation: to accept proposed Directives 8101, 8102, and 8103 verified via phone call on October 30, 2014.
2. Distribution of BNA Reports to Mediators. The BNA Collective Bargaining reports are accessible to all mediators and managers in the Education & Training eRoom. Mediators and managers were previously surveyed regarding their preference for daily distribution via email of BNA or the more focused press clips contained in Custom Scoops. The preference was to receive Custom Scoops via daily distribution.
  3. Directive 5202. Mediator Hiring, Promotion, and Transfer. (See Attachment 3.) A full and complete discussion was held and the Partnership reached the following consensus: Consensus recommendation: to accept proposed Directive 5202: Mediator Hiring, Promotion, and Transfer.
  4. New OPM Directive on Phased Retirement. Final regulations from OPM were recently announced. FMCS will review the regulations acknowledging the value that phased retirement might add to institutional memory and succession planning, but also recognizes the challenges phased retirement might present for a field mediator position due to the variability of schedule demands associated with the work.
  5. Utilization of DC Office Space and Training Rooms. The lease for the National Office at 2100 K Street expires in late 2016. The Agency has been advised that the building will be demolished to make way for new office space for the World Bank and International Finance Corporation. FMCS

is working diligently with GSA to locate alternative acceptable space that meets the unique needs associated with the work of FMCS in downtown Washington, DC.

6. Standards of Conduct for Mediators. Several versions of a Mediator Code of Conduct are currently in use at the Agency: the Code contained in an Appendix to the Code of Regulations for FMCS; and a Code utilized by the E&T Department for New Mediator Training. Neither of these Codes specifically addressed non-collective

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bargaining related mediation and other ADR training and facilitation activities. A revised Code is under review and a final draft will be provided to the Partnership for review.

7. Impact of Evolving Technology on Mediators' Work. FMCS continues to use new technologies, both to reach customers and meet their needs and to properly document case and meeting activities. Mediators are being offered a variety of opportunities to learn technology such as Adobe Connect and to improve their skills. As the nature of the work performed at FMCS changes, we will continue to examine the method and manner in which the work is counted and credited. The goal is to ensure that mediators and the Agency are given appropriate and consistent credit for work performed.
8. Email Policy for Mediators. In addition to current policies regarding the content and distribution of emails, the Agency is in the process of developing a style guide to ensure consistency in all public-facing communications including emails. These materials will be shared with the Partnership in advance of their distribution. At this time, mediators have been reminded to "Reply All" only when absolutely necessary. They are also asked to ensure that their FMCS email reflects a professional style and format and to refrain from adding religious or other personal expressions after

their signatures and contact information.

9. Affordable Care Act. Substantial material has been presented at a number of sub- regional professional development seminars. Recognizing that interpretation of ACA remains fluid, the Agency remains committed to providing mediators with timely and accurate information. Additionally, we are exploring a more efficient way to distribute information on ACA/healthcare bargaining best practice solutions.

Meeting expenses will be charged to: RDT Next meeting will be charged to: Outreach Next meeting co-chair: Dennis Teel (W8)  
Next meeting date: Spring 2015

Next meeting location: Washington, DC (unless another option is determined)