

## INSTRUCTIONS FOR COMPLETING AND WRITING EEO SETTLEMENT AGREEMENTS

Attached is the settlement agreement template for memorializing resolutions to EEO complaints.

- ❖ Check the case numbers and spelling of the party(ies)'s name(s). Confirm all names and applicable EEO case numbers to avoid confusion.
- ❖ Carefully describe the consideration for the agreement. Consideration requires new, future, clearly defined obligations by both parties to make the agreement legally binding. Review each party's obligations to confirm that they are clearly described, not otherwise required, and must occur after the agreement is executed. Agreements too vague for enforcement, not imposing additional requirements on both parties, or for which obligations are met before execution, will lack sufficient consideration to constitute a legally binding agreement.
- ❖ Consider timeframes or deadlines for each obligation. Unless the party representing the Agency during settlement negotiations can guarantee that a particular action can be completed within a specified time frame, it is best not to agree to any time frame. However, the agency should also avoid using the term "within a reasonable period of time" since what is considered to be a "reasonable period of time" is subjective and may cause an agreement to fail or lead to an allegation of a breached agreement.
- ❖ Attach all related documents. Attach to the agreement and clearly describe letters of resignation, performance appraisals, award recommendations, etc., as appropriate. Terms calling for a neutral or clean letter of reference should be avoided. Instead, the parties should agree upon a letter of reference, indicate that it will be provided upon request, and attach it to the agreement. If circumstances do not allow for attaching the actual document, specify in detail what it will say.
- ❖ Confirm the official with authority to sign the agreement. Request the settlement authority be present or accessible during settlement negotiations, to include alternative dispute resolution (ADR) sessions.
- ❖ In all cases, VA Counsel should review the agreement for legal sufficiency. Please note that OGC review of this Agreement is only as to its form and legality.

The OGC attorney whose signature appears below makes no representations as to the advisability or appropriateness of the settlement terms contained herein.

For matters arising out of VA Central Office, contact the Personnel Law Group for review (<https://vaww.ogc.vaco.portal.va.gov/offices/PLG/SitePages/Home.aspx>)

For matters arising out of facilities within the Districts, contact the appropriate District Chief Counsel. The Offices of Chief Counsel in the Districts can be accessed at:

[https://vaww.ogc.vaco.portal.va.gov/SitePages/District\\_Offices.aspx](https://vaww.ogc.vaco.portal.va.gov/SitePages/District_Offices.aspx)

- ❖ The highest ranking Agency signatory to the agreement is responsible for ensuring compliance: e.g., by following up with Human Resources and/or Fiscal, when appropriate.
- ❖ All required signatories must sign the agreement before it is effective. All required parties, including legal counsel, must sign the agreement before the agreement is fully executed and/or effective. If counsel is not present during negotiations, the agreement should be forwarded to counsel's prompt review.