National Mediation Board Organizational Ombuds Charter

May 21, 2008

Background

In 2004 the NMB first created the office of Ombudsman and instituted an ADR program called the Employee Support Program (ESP). This Charter reaffirms the NMB's commitment to its workplace ADR program, and brings the office of the Ombuds and the ESP in line with the "Standards for the Establishment and Operations of Ombuds Offices" established by the American Bar Association as annotated by the Coalition of Federal Ombudsmen (CFO) and the Federal Interagency ADR Working Group Steering Committee.[1]

[1] Issued in August, 2005. See Appendix II of this document.

Scope of the Office

Under the definitions provided by the ABA Standards, the NMB Ombuds office has been established as an Organizational Ombuds program, addressing problems presented by employees or contractors of the NMB regarding actions of the NMB or its managers and employees. The NMB Ombuds is the director of the agency's workplace ADR program, the Employee Support Program (ESP).[2]

In matters where NMB employees or contractors seek assistance with workplace problems, the NMB Ombudsman has been granted the authority to operate independent of pressure from the agency, impartially, and confidentially to problem solve, coach, and/or intervene as a third party.

Consistent with the ABA Standards, the NMB Ombuds is authorized to:

- Receive complaints or concerns from employees across all NMB Departments;
- Exercise discretion to accept or decline to act on a complaint or question;
- Act on her or his own initiative to bring issues to the attention of NMB managers or Board Members;
- Gather information regarding complaints or concerns in a manner consistent with the informal nature of the office and the need for employee confidentiality;
- Coordinate with union representatives and the NMB EEO Director to ensure that no formal procedures are violated by the use of ADR to address concerns or complaints.

[2] See Appendix I of this document: Employee Support Program Information.

Independence, Impartiality, and Confidentiality

The NMB Ombuds operates free from interference in the legitimate performance of her or his duties, reporting directly to the Board. Only an action by the entire Board can:

- Limit the Ombud's performance of assigned duties;
- Remove the Ombuds from her or his office;
- Eliminate the Ombuds position.

The procedure and grounds for discipline and/or removal of a federal Ombuds are controlled by 5 U.S.C. Chapter 75.

The NMB Ombuds will not operate as an advocate for management or employees/contractors. Rather, the NMB Ombuds will act as an impartial third party with no authority to resolve or settle disputes.

The NMB Ombuds will not disclose and is not required to disclose any information provided in confidence by any party to a concern or complaint, except to address an imminent risk of serious harm. Records pertaining to a concern or complaint are confidential and not subject to disclosure outside the Ombuds' office. Communication with the Ombuds or the ESP Contacts[3] will be considered "communication with neutrals" under the definitions of the Administrative Dispute Resolution Act of 1996 (ADR Act), which specifically prohibits disclosure of the substance of "dispute resolution communications." In cases where there are challenges to the confidentiality of information, the NMB Ombuds will receive counsel and representation from the NMB General Counsel.

[3] See the ESP Process in Appendix I.

Record Keeping and Reporting

The NMB Ombuds will maintain records of Ombuds and ESP contacts, recording the following information:

- The date on which the contact was made;
- Whether the contact was made with the Ombuds or an ESP contact;
- The general nature of the contact, consistent with the need to maintain confidentiality and anonymity;
- Whether notification was given to the EEO Director or AFGE regarding the contact.

At the end of each fiscal year, not later than October 31, the NMB Ombuds will issue to the Board a report with the above information summarized by fiscal year.