

MEMORANDUM OF UNDERSTANDING

The following constitutes an agreement between the Department of Education (“Agency”) and the American Federation of Government Employees, AFL-CIO (“AFGE”) on the Office for Civil Rights (OCR) 2022 Case Processing Manual (“the 2022 CPM”). This Memorandum of Understanding will become effective thirty-one (31) days from the execution date or upon the date of agency head approval, whichever occurs first, consistent with 5 U.S.C. § 7114.

1. The Agency should provide OCR staff with an advance copy of the 2022 CPM and corresponding MOU at least a week prior to training.
2. OCR staff should be able to pose questions about the CPM during the trainings.
3. One of the CPM trainings conducted in advance of the publication of the 2022 CPM should be recorded and uploaded on Mediasite or other accessible system.
4. The effective date for the proposed 2022 CPM should be at least a week after all trainings are concluded.
5. OCR currently asserts jurisdiction over dress code cases that are filed pursuant to Title VI, IX, and Section 504/Title II. OCR will address this matter during training on the CPM.
6. CPM trainings conducted in advance of the publication of the 2022 CPM should discuss what cases would be dismissed pursuant to 108(d).
7. CPM trainings conducted in advance of publication of the 2022 CPM should consist of bargaining unit employees (BUEs) and management, and should be done by region (one or two at a time). Combined regional training will consider factors like region size and time zones. Union representatives are welcome to attend all of these training sessions.
8. The CPM workgroup may participate in any one of the initial training sessions on the new CPM.
9. CPM trainings conducted in advance of publication of the 2022 CPM should explicitly state that the regional offices should not establish office-wide deadlines for conducting RRP. However, complaint processing activities, including RRP and evaluation of complaints, that are conducted by OCR Investigative Staff are subject to the Government Performance and Results Act (GPRA) goals.
10. CPM trainings conducted in advance of publication of the 2022 CPM should state that all individual complaints over which OCR has subject matter jurisdiction, that are filed timely (or where OCR granted a waiver), provide sufficient detail, and for which the complainant(s) has provided a signed consent form are eligible for mediation pursuant to subsection 201(a) if the complainant requested mediation at the time of filing the complaint. It is critical that a complainant’s request for mediation of their complaint pursuant to subsection 201(a) be entirely voluntary. All versions of the complaint form will contain a description of the mediation process.

For correspondence that OCR receives via U.S. mail or e-mail:

OCR will acknowledge receipt of the correspondence and include a consent form and a copy of the complaint form that contains a description of the mediation process. In its response, OCR will invite the complainant to review the complaint form and clarify or otherwise supply any additional information that the correspondent may not have provided in their original correspondence. Complainants who send correspondence via U.S. mail or e-mail must return a signed consent form and, if applicable, clarified complaint form within twenty (20) calendar days. If a complainant returns a signed consent form but chooses not to clarify their complaint within twenty (20) calendar days, OCR staff will proceed to evaluate the correspondence based on the information provided. If the information provided lacks sufficient detail (i.e., who, what, where, when, or how), OCR staff will follow the procedures outlined in CPM Section 108.

11. AFGE wants to review the new complaint form prior to implementation.
12. OCR will provide equitable opportunities for interested staff to perform mediations. This does not prohibit supervisors from assigning mediations to qualified staff members. OCR will offer training and other opportunities for interested staff members to become qualified to conduct mediations. Interested OCR staff will be able to attend such trainings and other opportunities provided that their participation does not interfere with their ability to perform other mission-critical and time-sensitive work. Requests for offered training and other opportunities will not be unreasonably denied.
13. The Agency will fulfill appropriate Labor obligations for any changes to OCR's 2022 CPM.
14. The 2022 CPM will be implemented consistently across regional offices.
15. For employees, any concerns regarding application of the 2022 CPM may be raised through the Regional Directors. The Union may raise concerns to the Labor/Employee Relations office and request to meet with OCR leadership to engage in discussions.
16. Consistent with 5 U.S.C. 7114 (b)(4), the Agency will provide AFGE, upon request, with all statistical data relied upon to develop the 2022 CPM.

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By my signature below, I attest that I am an Authorized Official duly authorized to sign on behalf of my organization.

On Behalf of the American Federation of Government
Employees (AFGE)
Sheria Smith, President

Date:

On Behalf of the Department of Education
Jerry Benoit, Chief Negotiator & LR/ER Specialist

Date:

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Approved by Department of Education Agency Head Review on _____.