

**Kentucky Employee Mediation Program
Personnel Cabinet
200 Fair Oaks Lane
Frankfort, KY 40601
(502) 564-3433, FAX (502) 564-4311
Linda.Patrick@ky.gov**

The Kentucky Employee Mediation Program (KEMP) was established in June of 2001 as an alternative conflict resolution program. Prior to KEMP, state employees had to follow a two-step process. They first had to file a grievance on any employment issue. If employees were not satisfied with the response to their grievance, they could take the second step and file an appeal to the Personnel Board. The history of the process had few favorable decisions at the grievance level, and as a result, there was a dramatic increase in appeals to the Personnel Board. As a result of the increase in the number of appeals to the Personnel Board, the first step of filing a grievance had become a formality to filing an appeal. The appeal process was time consuming, difficult to expedite, costly in time and in legal fees for attorneys. It was not unusual for a hearing and a decision to be rendered by the Board up to six months after the appeal was filed due to the backlog in cases.

KEMP became the second alternative prior to the Personnel Board appeal process. Mediation can be scheduled quicker and the actual process is normally completed in less than four hours, with a mutually satisfactory agreement reached 80% of the time. The Personnel Board credits KEMP with a 63% increase in settlement of appeals with an average cost savings of \$6,500 for every case settled.

Kentucky Employee Mediation Program

1. Please provide a brief description of this program.

KEMP was established as a way for employees to solve problems with another employee or with a supervisor. A trained mediator meets with two (or more) people in a conflict and helps them reach their own solution. The mediator is neutral and does not take sides. The mediator does not work in the same agency as the people being mediated. There is one full-time mediator and 17 part-time mediators. Mediation is available, at no cost, to all state employees in the Executive Branch.

2. How long has the program been operational?

The Kentucky Employee Mediation Program (KEMP) was established in June, 2001. Five state agencies were selected to pilot the program. Other state employee mediation programs were researched for structure and content and a training manual was developed to train volunteer mediators. Meetings were scheduled with state agency executives to get their input and support of the program.

3. Why was this program created?

KEMP was created as an alternative dispute resolution program for state employees and managers who had conflicts with one another such as ADA, FMLA needs, harassment or discrimination issues.

4. Why is this program a new and creative one?

Before KEMP was established, state employees could file a grievance with their supervisors and then file and appeal with the Personnel Board if they were dissatisfied with the grievance process. Problems with the Board appeal process was that it could take months for a hearing to be scheduled and the hearing could take up to three days to complete. Employees had to take annual or compensatory leave and pay their own expenses when they had to travel to the state capital in Frankfort. With KEMP, a mediation session can be scheduled within two weeks. Sessions are scheduled during work hours and usually take less than four hours to complete, with participants satisfied with the outcome 80% of the time.

5. What were the program start-up costs?

After funding was available for starting a mediation program, two full-time mediators were hired. The expense included the salaries of the mediators, their offices and supplies, printing of brochures, and a laptop computer. This came to around \$110,000.

6. What are the operational costs?

All training of new mediators is done completely in-house. To date, there is one full-time mediator who is also the manager of the program. There are 17 part-time mediators located in various state cabinets. These are all existing state employees who have received permission and recommendations from their agencies to volunteer for the program. All training is provided to the mediators at no cost to them. There is also minimal cost to the state, since the program manager and another mediator provide the training and utilize guest instructors at no cost. The

salary of the manager, the costs of materials and supplies and continuing education and conferences for the manager is around \$60,000 a year.

7. How is the program funded?

The program is in the budget in the Personnel Cabinet.

8. Did this program originate in your state?

At the time KEMP was established, there were very few other states which had a mediation program. We were able to acquire some information from the United States Air Force Mediation Program and from a few other state programs. Recently, our program has been a model for other states who want to start a mediation program and we have received numerous inquiries from them.

9. How do you measure the success of your program?

More than 100 mediations have been completed since the program began in 2001. We have reached settlement agreements in 80% of the cases. There is a three-month follow-up evaluation and most employees report that their situation remains resolved. We have an excellent working relationship with the Personnel Board and they refer some appeals to mediation. They credit KEMP with a 63% increase in settlements. There are over 500 appeals filed with the Personnel Board each year. An appeal costs around \$6,500 to complete, involves six to ten employees and takes about three days to complete. The Board appeal involves the agency attorney, witnesses, gathering evidence, and a hearing officer's salary. The cost is much higher in the cases that are appealed to circuit court.

By using mediation, employees can address problems before they become more severe and disruptive. The individuals reach their own agreement with the help of the mediator. Experience has shown that employees are more satisfied with the outcome than if a third party made a ruling in the grievance procedure. Mediation is an open process where points of view are exchanged. It improves working relationships, morale and productivity. Employees who utilized mediation learn problem solving skills and are less likely to quit or transfer. They also are less likely to file future grievances, appeals and lawsuits and are more likely to resolve work issues on their own.

10. How has the program grown and/or changed since its inception?

We started with two full-time mediators. In the second year, we doubled the number of mediations, and that number continues to increase as more and more people become aware of the process. Our settlement rate continues to improve. We initially trained five volunteer mediators and we now have 17 part-time mediators. We also created a Web site and distributed a KEMP brochure to all state employees with their paychecks. We also take the program to other state agencies; tables are set up in lobbies of various state buildings periodically to distribute information about the mediation program. We also have a Power Point presentation for managers and employees and are often invited to speak at various staff meetings and training sessions. We also do presentations at annual EEO conferences and IPMA-HR (International Public Managers Association – Human Resources) conferences. We have become a model for other states who want to start a mediation program for employees.