

§ 1405.11 Effect on employee benefits.

Career part-time employees are entitled to coverage under the Federal Employees Group Life Insurance and Federal Employees Health Benefits Programs. The Government contribution for health insurance of eligible part-time employees will be prorated on the basis of the fraction of a full-time schedule worked.

PART 1406—FMCS TERMS OF SERVICE

Sec.

1406.1 General terms of service.

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1406.3 Virtual services—additional terms of service.

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AUTHORITY: 29 U.S.C. 172; 29 U.S.C. 173 *et seq.*; and 5 U.S.C. 574.

SOURCE: 88 FR 76659, Nov. 7, 2023, unless otherwise noted.

§ 1406.1 General terms of service.

When Federal Mediation and Conciliation Service (FMCS) services are used, the recipients of the services have agreed to abide by FMCS’s general terms of service as well as any other terms of service provided by FMCS.

(a) The recipients of a service shall hold FMCS and any FMCS neutrals harmless of any claim arising from the delivery of that FMCS service.

(b) FMCS will determine the date, time, place, and manner (virtual, in-person, or hybrid) of services provided in accordance with any applicable statutes, regulations, and agreements.

(c) FMCS may convene the parties for a threatened or actual work stoppage whenever in its judgment such dispute threatens to cause a substantial interruption of commerce.

(d) Any person shadowing an FMCS neutral agrees to be bound by the same confidentiality standards as the FMCS neutral and such confidentiality standards will be honored by the parties.

(e) FMCS recognizes the importance of mediator confidentiality to further

its mission. Therefore, FMCS will not produce any materials related to a mediation other than the date, parties, location, and mediator, unless required by law. FMCS will not produce materials related to a mediation, materials exchanged in a mediation or facilitation, information related to non-plenary sessions of a facilitation, mediator or facilitator notes, and any internal communications with the mediator or facilitator, unless required by law.

(f) Nothing in this section shall be construed so as to negate or modify the FMCS’s Confidential Commercial Information (CCI) regulation (29 CFR 1401.26).

(g) FMCS will make a copy of these terms available to all parties upon request.

§ 1406.2 Terms of service for mediation, facilitation, and other alternative dispute resolution services.

The following Terms of Service additionally apply when the FMCS service is a mediation, facilitation, training, and other alternative dispute resolution service.

(a) These services are voluntary processes that may be terminated at any time unless otherwise provided by statute or by agreement.

(b) The neutral has no authority to compel resolution.

(c) These services are confidential to the extent allowed by law. The obligations imposed by these terms and conditions are in addition to and do not supersede any obligations imposed by applicable state or Federal laws regarding mediation confidentiality.

(d) The parties agree that they will not record, transcribe, save, or otherwise capture any audio, video, files, documents, chat texts, or any other data that they would not have access to but for the service being provided, unless agreed to by all parties and with prior written approval of FMCS, or as otherwise required by law. They further agree to notify the neutral immediately if recordings, saves or other captures of data occur, to ensure that no further distribution or transfer occurs, and to immediately and permanently delete them.

(e) Non-parties may attend only with the agreement of the parties and the

neutral unless otherwise required by law and are bound by these terms of service.

(f) If a party inadvertently gains access to any confidential discussions involving another party, the party with inadvertent access shall immediately disclose their presence and exit from the confidential discussions. Any confidential information inadvertently disclosed may not be used by the party with inadvertent access, even within the confines of the alternative dispute resolution session.

(g) The parties agree not to subpoena or compel the neutral to testify or produce any documents provided by a party in any administrative or judicial proceeding. The neutral will not voluntarily testify or produce documents on behalf of a party in any administrative or judicial proceeding unless otherwise required by law.

§ 1406.3 Virtual services—additional terms of service.

The following Terms of Service additionally apply when the FMCS service is provided virtually.

(a) Parties may not provide meeting access information to non-parties without permission from the neutral unless the session is open to the public.

(b) The neutral and all parties must be provided notice of all attendees before or at the time of attendance unless the session is open to the public.

(c) Parties must ensure the integrity of technology used in virtual meetings. If an attendee is aware of any security breach, that attendee will inform the neutral immediately.

§ 1406.4 Grievance mediation and Federal sector inter-agency agreement mediation —additional terms of service.

The following Terms of Service additionally apply when the FMCS service is a grievance mediation or Federal sector inter-agency agreement mediation.

(a) The grievant or complainant is entitled to be present at the mediation.

(b) The parties agree not to disclose to any non-party oral or written communications made during the mediation process, including settlement terms, proposals, offers, or other state-

ments, whether made privately to the neutral or when all parties are present.

(c) Evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation proceedings.

(d) The neutral has no authority to compel agreement or other resolution of the dispute and will issue no written recommendations or conclusions. At the request of the parties, or on the initiative of the neutral, the neutral may provide an oral recommendation or opinion to resolve the dispute. In that circumstance, the parties may jointly decide to implement that recommendation or opinion but neither party is obligated to do so.

(e) (For Federal sector inter-agency agreement mediation, if applicable) Any communications between the Agency or Organizational Program/or Alternative Dispute Resolution Coordinator and the neutral(s) and/or the parties are considered dispute resolution communications with a neutral and will be kept confidential.

§ 1406.5 Training and outreach presentations.

The following Terms of Service additionally apply when the FMCS service is a training or outreach presentation.

(a) The parties agree that they will not record any FMCS training or outreach presentation (whether delivered in-person or virtually) without the knowledge and consent of the parties and prior written approval of FMCS.

(b) [Reserved]

PART 1410—PRIVACY

Sec.

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