Resolve

Dispute Resolution Procedure

Introduction

Conflicts and disagreements can occur between a company and its employees, even in the most harmonious workplaces. Just as our Company has a medical plan to help you if you become ill, it makes sense for us to provide a plan for addressing employee's needs with respect to conflict resolution in the workplace. For this reason, the Company has adopted a dispute resolution program. We call it *Resolve*.

This program is part of our continuing efforts to create a work environment where employees feel valued and respected. Its purpose is to improve the process for airing and settling almost any kind of workplace dispute, from minor, everyday misunderstandings to what could be violations of your legally protected rights.

Resolve is a dispute resolution program. The process concludes, when necessary, with mandatory binding arbitration. Resolve takes the place of the judicial system as a method of dispute resolution. The binding arbitration component of the process is recognized by the Federal Arbitration Act and various state laws.

Resolve became effective May 11, 2009 for all employees and job applicants. This policy and the Resolve booklet explain the Resolve program. Please read it carefully.

Overview

Resolve provides the exclusive means for employees and job applicants to work out conflicts in the workplace. From a simple misunderstanding to a more serious conflict, we use Resolve to settle issues in a quick, effective, and (to the extent practical) confidential way — before a problem needlessly escalates. Through this program, we will handle disagreements in a way that promotes mutual respect and understanding and maintains a positive atmosphere.

This policy and the Resolve booklet create a binding contract between the Company, its employees, and job applicants for the use of Resolve to settle workplace disputes. **The effective date of Resolve is May 11, 2009.**

Beginning May 11, 2009, your 1) applying for employment, 2) accepting employment, 3) accepting any promotion, pay increase, transfer, bonus, or other benefit of employment, or 4) continuing in employment with the Company after the effective date of Resolve will constitute your consent and agreement to settle work-related disputes (other than the exceptions expressly stated in this policy and the Resolve booklet) exclusively through Resolve. **This includes the requirement that any legal dispute between you and the Company be resolved by final and binding arbitration rather than litigation. This means you will not have a right to bring a lawsuit against the Company or have a jury trial regarding such work-related disputes.** Work-related disputes shall be settled through Resolve solely on an individual basis with you. This means that you will not have a right to serve as a representative of a class of persons, as a private attorney general, or in any other representative capacity, or to participate as a member of a class of claimants in any work-related lawsuit or arbitration filed against the Company.

Components Of The Resolve Program

There are many types of work-related conflicts — from personal conflicts to disagreements over job responsibilities to concerns about promotion, discrimination, or sexual harassment. Resolve applies to all levels of employees and all types of problems, except as specifically noted in this plan. Resolve gives you three different approaches for working through conflict: **Talk, Company Resources,** and, if the conflict involves legal dispute, **External Assistance.**

Talk
For some workplace conflicts, having a calm and respectful talk with the person with whom you have a conflict may be all you need to solve the problem. Talk is a way of resolving conflicts early, when and where they occur. But, sometimes attitudes and emotions get in the way of this approach, and at other times it may just seem inappropriate or unworkable. In these situations, you can discuss your concern with your supervisor or a higher-level manager.

The Company is committed to this process, which means that you are entitled to express your concerns without worrying about retaliation. We value your one-on-one input and want to address problems early, not avoid them.

Advantages Of Talk:

- Informal, direct, and inexpensive
- Resolves issues early
- Encourages an open environment
- Builds communication skills
- Improves working relationships between coworkers

Company Resources
You can also turn to professionals in the operations and human resources departments who have experience and training in handling workplace conflict and who will administer this dispute resolution process. We offer a variety of experienced professionals, both men and women, who can resolve a wide assortment of workplace problems. A member of this group can serve as a go-between for you and another person or persons. Or, if appropriate, someone from HR or operations can set up a conference with the persons involved and offer fair and impartial advice that will often bring about a resolution. You may contact any HR representative or operations manager for help.

External Assistance
If your issue is not resolved to your satisfaction through Talk or Company Resources, and your complaint involves a legal dispute (specifically defined in a later section), you may choose to request mediation. If mediation is unsuccessful, either you or the Company may elect to bypass mediation and proceed to resolve the legal dispute through binding arbitration.

Mediation:
You can arrange mediation by telling your office HR representative or your operations manager that your dispute has not been resolved and that you are requesting mediation. This means that you and the Company meet informally with an outside mediator — a neutral, independent expert who can get to the root of the problem and pave the way for a solution that is agreeable to both parties.

Initiating Mediation

Please make requests for mediation in writing. You will be asked to pay $100 toward the cost of any mediation, and the Company will pay the remaining costs of any mediation that you request. We will pay all of the cost for mediation that the Company requests. The Company will not ask you to pay any portion of the cost if prohibited by applicable law. If paying your portion of mediation costs presents a financial hardship, you may request that the Company pay your portion. Although you don't need an attorney for mediation, you may have one if you choose. However, you will be responsible for your legal fees and expenses.

Arbitration:

If the legal dispute is not resolved in mediation, or should either you or the Company decline to engage in mediation of the legal dispute, either you or the Company may elect to resolve the dispute by final and binding arbitration. As a component of Resolve, arbitration is a process in which persons with a legal dispute: 1) have waived their rights to file a lawsuit and to have a jury resolve their dispute and 2) have agreed, instead, to submit their dispute to a neutral third person called the arbitrator. Each party to the dispute has an opportunity to present evidence to the arbitrator. However, consistent with the expedited nature of arbitration as compared to court-based litigation, the pre-arbitration discovery (the process by which non-privileged information is obtained from the other party in advance of the arbitration hearing) may be limited in comparison to court-based litigation. Also, arbitration proceedings are private and less formal than court trials. The arbitrator will issue a final and binding decision resolving the dispute, which may be enforced as a court judgment. A court rarely overturns an arbitrator's decision. **With respect to disputes subject to arbitration under Resolve: 1) You and the Company are waiving the right to have a trial by jury, and 2) you and the Company are waiving the right to have a court resolve the legal dispute.**

Initiating Arbitration

A request for arbitration must be submitted in writing. The request must state the basis for the legal dispute, including the alleged act(s) or omission(s) that created the dispute; the name, address, and phone number of the employee initiating the request; and the names of all persons allegedly involved in the act(s) or omission(s). The request must pertain to only the Company and a single employee (since class actions and other multiparty claims are not allowed).

If you have not already selected an arbitration administrator and designated your selection on your written request for arbitration, you will have 15 days from the date of your request to select an arbitration administrator and provide the Company with written notice of your selection. The administrator you select must be either the American Arbitration Association (AAA, 800-778-7879, **www.adr.org**) or the National Arbitration Forum (NAF, 800-474-2371, **www.adrforum.com**). No arbitration may be administered by any organization that has in place a formal or informal policy that is inconsistent with and purports to override the terms of Resolve. If neither AAA nor NAF is able or willing to serve as arbitration administrator, you and the Company will select an administrator by agreement or a court will select the administrator.

Your written request for arbitration must be sent by certified mail or hand-delivered to a member of HR or your operations manager. The Company's request for binding arbitration must be sent to you by certified mail or hand-delivery. The Company will initiate the arbitration process within 30 days of receiving your request or of sending a request to you.

A request for arbitration must be submitted within the statute of limitations applicable under law to the claims being asserted.

Arbitration Fees And Location

If you request arbitration, you will be responsible for the fees of the administrator and arbitrator, to the extent permitted by law, up to a maximum of $100 less any fees you may have paid in connection with the mediation of the legal dispute. The Company will consider your reasonable request to waive your portion of arbitration costs and will not ask you to pay any portion of such costs if prohibited by applicable law. The Company will pay all other fees charged by the administrator or arbitrator. Should the Company decide to initiate arbitration, it will pay all fees of the administrator and arbitrator. Although you are not required to hire an attorney for arbitration, you may have one if you choose. The parties will bear the fees and expenses of their own counsel, experts, and representatives, except to the extent applicable law provides otherwise.

All in-person proceedings shall occur at a location reasonably convenient to where you reside.

Governing Rules

The Federal Arbitration Act (FAA) shall govern the interpretation, enforcement, and procedures under Resolve. The arbitrator shall apply all statutes of limitation, honor claims of privilege recognized by law, and be subject to constitutional (including due process) constraints to the same extent as a judge acting in a judicial proceeding. The arbitrator will have the authority to rule upon dispositive motions (i.e., requests that the arbitrator dispose of the claims by either dismissing them or entering judgment in favor of one of the parties), with or without a hearing. In conducting arbitration proceedings, the arbitrator shall not be bound by any federal or state rules of civil procedure or evidence or by state arbitration laws. The arbitrator shall allow discovery to the extent permitted by the administrator's rules and may allow further discovery for good cause.

The arbitrator shall decide all covered claims in accordance with the applicable substantive law of the state or federal jurisdiction, or both, in which the claim arose, and may grant any remedy or relief that would have been available had the claim been asserted in a court of competent jurisdiction, including punitive damages and attorneys' fees. However, the arbitrator may not change, require the Company to establish, nor limit the Company's authority to establish or revise its lawful policies, procedures, rules and/or practices. Upon any party's request, the arbitrator shall provide a written explanation for the award. The arbitrator's award shall be final and binding on both parties. The arbitrator's award may only be appealed to court as set forth in the FAA (or other governing statute). The arbitrator's award may be enforced by any court having jurisdiction.

The arbitration shall be governed by the terms contained in this policy and the Resolve booklet and, to the extent consistent with Resolve, applicable rules of the administrator (which are available on the administrator's website). In the event of a conflict or inconsistency between Resolve and the rules of the administrator, Resolve shall govern.

<u>Advantages Of The External Assistance Methods:</u>

- Mediation can yield "win-win" results
- Mediation preserves work relationships
- Arbitration is fair, impartial, and private
- Arbitration is quicker and less costly than litigation

Resolve Is Mandatory For All Employees And Job Applicants

Your agreement to be bound by Resolve is a condition of being considered for a job with our Company, and for existing employees, it is a condition of continuing employment with the Company. To be fair, and to provide further consideration for your agreement to be bound by Resolve, the Company also agrees to be bound by Resolve. Thus, Resolve creates a binding contract requiring the Company, its employees, and its job applicants to resolve all work-related conflicts through the procedures provided in Resolve, and, upon either your or the Company's election, to resolve any legal dispute (defined below) through final and binding arbitration, unless the legal dispute is resolved through other procedures provided in Resolve (i.e. Talk, Company Resources, or External Assistance (mediation or arbitration).

Covered Claims

While employees may submit any employment-related conflict or dispute to the Talk and Company Resources procedures of the Resolve program, only legal disputes as defined herein may be submitted to and processed through External Assistance (mediation or arbitration). A legal dispute is a conflict between the Company and an employee or job applicant that relates directly or indirectly to the employee's or job applicant's hiring, non-hiring, terms and conditions of employment, or termination of employment that would be actionable in a court of law having jurisdiction over the claims. These include, without limitation:

Disputes or claims under any federal, state, or local constitution, statute, ordinance, rule, regulation, or common law doctrine, including all laws concerning or relating to employment discrimination or harassment, terms or conditions of employment, employment compensation, bonuses or working conditions, benefits (except where applicable federal law provides that, notwithstanding the Federal Arbitration Act, arbitration must be voluntary or non-binding), or termination of employment. Specifically, this includes but is not limited to, disputes or claims pursuant to:

- Civil Rights Acts of 1866, 1964, and 1991; the Age Discrimination in Employment Act; the Americans with Disabilities Act; the Family and Medical Leave Act; the Fair Labor Standards Act; and the Employee Retirement Income Security Act of 1974
- whistleblower or retaliation statutes or common law theories
- state and local human rights or non-discrimination laws
- state wage payment and collection laws
- tort, breach of contract, or other common law theories.
- claims relating to workplace accommodation of physical or mental disabilities or bona fide, sincerely held religious beliefs

Except as otherwise set forth under the section below titled "Class Action Waiver," the term "legal disputes" also includes disputes over whether matters are subject to arbitration under Resolve.

Excluded Claims

Examples of non-legal disputes not subject to mediation or arbitration under Resolve (unless such disputes also form the basis of a legal dispute) include ordinary workplace disputes such as disputes over evaluations, assignments, salary increases, and discipline. You may, however, request an internal review of disciplinary action by speaking with HR or another member of the management team.

In addition, the following claims are specifically excluded from, and may not be brought through mediation or arbitration under the Resolve program:

- Claims for workers' compensation or unemployment compensation.
- Claims under the Occupational Safety and Health Act.
- Claims by an employee for benefits under a plan or program that provides its own binding arbitration procedure
- Claims for injunctive or other equitable relief relating to an alleged breach of an employee's non-competition, non-solicitation, non-disclosure or confidentiality obligations.
- Claims involving patents, trademarks or intellectual property.
- Claims challenging business decisions such as decisions to restructure, reorganize, downsize or divest in a business, unless such a decision is alleged to have violated the employee's legally protected right.
- Claims against an individual supervisor not made against the Company that do not involve conduct within the scope of the manager's employment.
- Claims that seek to establish, modify or object to the Company's policies, except for claims that allege discriminatory or unlawful application or impact of such policies.
- Claims not raised in a timely manner under the Resolve process or applicable statutes of limitations shall be deemed to be waived and cannot be brought under the Resolve program or any other process.

Exclusivity of Resolve

Resolve is the exclusive means to settle workplace conflict, even if the alleged act or omission giving rise to it occurred prior to the effective date of Resolve.

Resolve does not preclude an employee or job applicant from filing a claim or charge with any governmental administrative agency, such as the Equal Employment Opportunity Commission, or from filing a workers' compensation or unemployment claim in a statutorily specified forum. Criminal complaints also are excluded from Resolve. Participating in a lawsuit with respect to any legal dispute does not waive the right of the Company, the employee, or job applicant to compel arbitration of that dispute or any other legal dispute (whether initiated by way of counterclaim, crossclaim, or new claim) between the parties.

Class Action Waiver: With respect to disputes subject to arbitration hereunder:

1) **You and the Company are waiving the right to participate as a class or other representative, as a private attorney general, or as a member of a class of claimants in any lawsuit or arbitration proceeding. The arbitrator shall have no authority to hear or decide any such class or private attorney general claim.**
2) **You and the Company are waiving the right to consolidate in a single proceeding, claims, or defenses asserted by or against you and third parties.**

The validity and effect of the section titled "Class Action Waiver" shall be determined exclusively by a court and not an arbitrator. In the event that a court of competent jurisdiction in the state where an arbitration would occur determines that this waiver of class action or private attorney general action in arbitration is unenforceable with respect to a particular claim, then Resolve shall not apply to such claim brought as a class action or a private attorney general action or otherwise asserted on behalf of or against others.

Except for the class action waiver set forth above, if any provision (or part of a provision) in Resolve is held by a court of competent jurisdiction to be void or unenforceable, the remaining provisions will be enforceable and the relevant portion of the subject provision shall be limited in scope, as appropriate, to make the provision enforceable.

Resolve shall continue to be a binding contract after an employee's termination from employment (whether the termination is voluntary or involuntary). An employee's or job applicant's heirs, representatives, executor, and administrators and the Company's successors and assigns shall be legally bound by Resolve.

Resolve Q & A

Resolve is the program that the Company has established to settle all workplace-related disputes that may develop. It is mandatory for the Company, its employees, and its job applicants. Under Resolve, conflicts can be settled through Talk, through Company Resources, or for legal disputes, through External Assistance (mediation or arbitration). Here are the answers to some of the questions you may have about Resolve:

What types of conflicts can I bring to Resolve?
Resolve can help you find solutions to all workplace conflicts, from simple disagreements and misunderstandings to legal disputes.

Can I be fired, demoted, denied a promotion, or otherwise punished for raising an issue through the Resolve program?
No. The Company has a strict policy against retaliation. If you believe you are experiencing retaliation for utilizing the Resolve program, report your concern to your HR representative.

If we really are a team, why do we need a program like Resolve?
Just as members of families, sports teams, and coworkers have their differences, disagreements can occur between companies and employees. Resolve provides an opportunity to improve our workplace relationships.

What's the difference between mediation and arbitration?
In mediation, the parties in conflict sit down with a neutral third party, a mediator, to discuss the situation and try to reach an agreement that is satisfactory to the parties. The mediator can make suggestions, but the parties are responsible for working out the actual solution. In arbitration, the parties tell their sides of the story to an arbitrator, who makes a final and binding decision.

What does it mean that Resolve is the "exclusive means" for settling workplace conflict?
It means that all disputes must be resolved through the methods of Talk, Company Resources, or External Assistance. If an employee files a lawsuit against the Company, the Company may ask the court to dismiss the lawsuit and compel arbitration under the Resolve program. By the same token, if the Company files a lawsuit against an employee, the employee may ask the court to dismiss the lawsuit and compel arbitration under the Resolve program.

Does it cost me anything to use Resolve?
In the event you seek mediation or arbitration, you will need to pay up to $100, unless the Company approves a waiver due to financial hardship or other reasonable grounds. All other administrative fees and expenses will be paid by the Company. If you hire an attorney, you are responsible for your legal fees, except where applicable law provides otherwise. You are also responsible for your other fees and expenses (such as witness fees and travel expenses), except where applicable law provides otherwise.