

National Roster of Environmental Dispute Resolution and Consensus Building Professionals

Roster Removal Procedure

The “roster” means the **National Roster of Environmental Dispute Resolution and Consensus Building Professionals** (also called the Roster of ECR Practitioners) managed by the U. S. Institute for Environmental Conflict Resolution, a federal program established by the U.S. Congress to assist parties in resolving environmental, natural resource, and public lands conflicts. The U.S. Institute is part of the Morris K. Udall Foundation, an independent federal agency.

The “roster manager” means the U.S. Institute employee directly and primarily responsible for the development, management and oversight of the roster.

1. Rights of persons listed on the roster

- A. No person has any right to be listed, to remain listed, or to be referred or selected for any conflict resolution project.
- B. A person listed on the roster may request placement on inactive status or a return to active status.
- C. The U. S. Institute may remove a roster member at its sole discretion for the reasons set forth below.

2. Grounds for removal from roster

Pursuant to the Conditions for Listing agreed to at the time of listing, a roster member may be removed:

- If the roster member deviates from the Model Standards of Conduct for Mediators;
- If the roster member deviates from the Confidentiality Policy of the U.S. Institute for Environmental Conflict Resolution (where applicable);
- For good cause, such as:
 - Submission of materially false application data,
 - Failure to provide non-confidential information required by the Institute for management and evaluation of the roster,
 - Failure to disclose to prospective parties any conflicts of interest or other circumstances likely to create actual or perceived bias,
 - Engaging in unethical or illegal behavior related to a case handled through the roster referral process,
 - Improper disclosure of confidential information related to a case handled through the roster referral process.

3. Procedure for removal

A. Initiation of process

The process for removal of a roster member may begin in one of two ways: at the initiative of the roster manager or through the submission of a complaint.

- i. On roster manager's initiative. The roster manager may initiate removal of a roster member for submission of materially false application data or failure to provide non-confidential information required by the Institute for management and evaluation of the roster.
- ii. Complaint process. A complaint may be submitted to the roster manager by anyone with information regarding a roster member's conduct, including Institute staff. Submit complaint by email, fax or mail to:

Roster Manager
U.S. Institute for Environmental Conflict Resolution
130 South Scott Ave.
Tucson, AZ 85701
Fax: 520-670-5530
Email: roster@ecr.gov

A complaint must be in writing and include: 1) factual information regarding the roster member's alleged conduct and 2) an explanation of why that conduct is believed to constitute one or more of the grounds for removal described above.

4. Preliminary review, temporary de-activation, and notice to roster member

When the roster manager initiates the process, the roster manager may act based on information acquired through roster administration, including data submitted by the member or others related to the application process, or the member's failure to submit appropriate information.

When a complaint initiates the process, the roster manager may, but is not required to, gather additional information from the complainant prior to making an initial determination. The roster manager may dismiss the complaint at this point if the complaint/conduct described does not constitute grounds for removal.

If the roster manager determines from a preliminary review that the information indicates the roster member may have engaged in conduct that may constitute grounds for removal, the roster manager, after notifying the roster member as provided below, may temporarily stop referring the roster member and temporarily de-activate the roster member from the online, publicly searchable database for up to 90 days.

The roster manager shall provide the roster member written notice and an opportunity to submit, within 45 days of the notice: 1) factual information relevant to the allegations, including the accuracy of the allegations, and/or 2) an explanation of why the roster member believes the conduct does not constitute grounds for removal. The notice shall contain a statement of the alleged facts and grounds for removal, inform the member if temporary de-activation has occurred, and state that the roster member shall be removed as of the date specified in the notice if no written response is submitted by that date.

5. Removal

A written response must be received by the roster manager by the date specified in the notice, in order to be timely; responses via fax, email or overnight delivery are encouraged in order to ensure timely delivery. If a roster member fails to submit a response by the date specified in the notice, the roster member shall be removed from the roster. If the roster member timely submits factual information and/or an explanation in response to the notice, the roster manager shall determine whether removal is warranted based on all information submitted. The roster manager may, but is not required to, gather additional information from the roster member, complainant and/or others involved, before making a determination regarding removal. The roster manager shall make a decision within 45 days after receipt of the response and notify the roster member of the decision (to remove or not to remove) in writing. All decisions by the roster manager are final, except as provided below regarding appeal.

6. Appeal

A roster member who has been removed by the roster manager may appeal that decision to the director of the U.S. Institute. The appeal must be in writing and must arrive at the U.S. Institute within 30 days of the date of the notice of decision. Submissions via email, fax or overnight delivery are encouraged to ensure timely delivery. Submit appeal to:

Roster Manager
U.S. Institute for Environmental Conflict Resolution
130 South Scott Ave.
Tucson, AZ 85701
Fax: 520-670-5530
Email: roster@ecr.gov

The director of the U.S. Institute shall review the record considered by the roster manager and the letter of appeal. The roster manager's decision shall be affirmed if the U.S. Institute director determines, in writing, that the roster manager's decision is reasonable and supported by the record. If the decision is affirmed, the roster member shall remain removed. If the director determines in writing that the roster manager's decision is not reasonable and supported by the record and does not affirm,

the roster member shall be re-instated. The director shall make a decision within 30 days of receipt of the letter of appeal and notify the roster member of the decision in writing. All decisions of the U.S. Institute director are final.

7. Reapplication and reinstatement after removal

Except for removal for failure to provide non-confidential information required by the Institute for management and evaluation of the roster, a roster member who has been removed may re-apply for roster membership after three years and must demonstrate to the satisfaction of the roster manager that the reasons for the removal no longer exist and will not recur. For removal for failure to provide non-confidential information required by the Institute for management and evaluation of the roster, the roster member may re-apply and be reinstated upon providing the required information.

8. Records regarding removal process

A. Confidentiality of removal process documents

All information submitted to or collected by the U.S. Institute during a roster removal process, including a complaint, response by the roster member, and any additional information collected or generated by U.S. Institute staff in whatever form (e.g., notes, and memoranda, emails, etc.), will be confidential. Such information will be released only to the participants in the removal process and only to the extent necessary to their participation in the process, and they will be asked to maintain confidentiality. Only those U.S. Institute staff with a direct role in the removal process will have access to such information.

B. Information regarding removal decisions

In each case resulting in removal of a roster member, the roster manager will prepare a brief summary documenting the removal decision. The summary will not include the names or any other personal information regarding the affected roster member or other participants. The summary shall describe how the removal process was initiated, the issues considered, any policy arguments raised, and the U.S. Institute's decision and analysis. The summary will be available on request.

The U.S. Institute will not make any public announcement regarding removals, other than to report summary statistics. In response to an inquiry regarding a removed roster member, the Institute will merely state that the individual is no longer a member of the roster.