

## Department of Labor Relations Unilateral Settlement Procedure

1. The DLR will consider a unilateral settlement offer (USO) at any time after a complaint has been issued.
2. A respondent can make a USO to the DLR Director after unsuccessfully presenting it to the charging party.
3. The DLR Director will notify the hearing officer assigned to the case that she has received a USO, but will not disclose the terms of the offer.
4. The DLR Director will review the terms of the USO and may contact the respondent to discuss the existing terms and/or negotiate new terms.
5. The specific terms of a USO will vary for each case, but in general, the USO should effectuate the purposes of the Law. Practically, it should include the following:
  - Payment of any damages that the respondent would owe if it lost the case, although the Director **may** consider a payment of less than 100% damages, in no circumstance can a USO include less than 80% of the damages;
  - An agreement to return to the status quo ante, pending bargaining, which may include restoration of unlawfully changed practices or separated employees;
  - Where appropriate, an agreement to bargain;
  - An agreement to post an appropriate notice to employees. The notice will state that it is posted pursuant to a settlement. The Director **may** consider a USO in which the notice does not require admission of violations or include a non-admission clause.
6. If the DLR Director is inclined to accept the USO as offered/negotiated, the Director will issue a notice to the charging party inviting the charging party to enter into the settlement agreement or to show cause why she should not accept the USO.
7. After the DLR Director reviews the charging party's show cause response, should she believe that negotiating new terms is necessary, she may contact the respondent to discuss changing the USO. After these changes to the USO are made, if she believes that the charging party would reconsider entering into the settlement agreement, she may again contact the charging party and offer the charging party this invitation.
8. If the charging party agrees to the settlement agreement, it will be considered a settlement agreement between the parties and the charging

party will be required to withdraw the charge as part of the settlement agreement.

9. If the charging party declines the offer to accept the USO and the DLR Director concludes that the charging party's objections do not preclude approving the USO, the DLR Director will approve the USO as a unilateral settlement agreement and the charge will be dismissed and any complaints withdrawn based on the terms of the agreement. See 456 CMR 15.04(1), 15.05(2). The dismissal letter will include a brief statement of the reasons for the approval and contain the standard appeal language. The letter will also include the following paragraph:

In view of the undertakings contained in the attached settlement agreement, it is the Department of Labor Relation's view that it is unreasonable not to enter into this agreement and the Department of Labor Relations has determined that the terms of this agreement are just and proper.

10. A copy of the approved settlement agreement will be attached to this dismissal letter. The unilateral settlement agreement may contain a non-admission clause and will include the consequences of non-compliance. Because the settlement agreement is between the DLR and the respondent, it will not contain terms negotiated between the charging party and the respondent.
11. Generally the DLR Director will not accept partial settlements of a multi-count complaint.
12. If the respondent fails to comply with the agreement, the complaint will be reinstated, the provisions of the complaint will be deemed admitted, and the only issue to be litigated will be the respondent's compliance with the agreement. In no event can the respondent resurrect and litigate the original case if it fails to comply with the agreement.