

# **Alternative Dispute Resolution A Resource Guide**

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## Introduction

Alternative dispute resolution (ADR) consists of a variety of approaches to early intervention and dispute resolution. Many of these approaches include the use of a neutral individual such as a mediator who can assist disputing parties in resolving their disagreements. ADR increases the parties' opportunities to resolve disputes prior to or during the use of formal administrative procedures and litigation (which can be very costly and time-consuming). It typically is not intended to replace the more traditional approaches and it can provide long term solutions to employee-employer conflicts through stakeholders' participation and buy-in. In contrast, traditional dispute resolution procedures often impose a "solution" handed down by a third party (e.g., a judge), where neither party walks away satisfied, and the disputing parties' conflict continues or increases.

In employee and labor relations and equal employment opportunity disputes, ADR has most commonly taken the form of mediation. However, there are many other options available including conciliation, cooperative problem-solving, dispute panels, facilitation, fact finding, interest-based problem solving and bargaining, settlement conferences, ombudsing, peer review, and alternative discipline. Alternative discipline as an ADR technique involves taking some type of action in lieu of traditional discipline to correct misconduct without resorting to more costly formal procedures and litigation. Parties can use any of these ADR techniques,

combinations of them, or others not discussed in the *Guide*. In short, parties can design and implement virtually any form of ADR which suits their needs.

A number of initiatives by Congress and the Government have encouraged the use of alternative methods of workplace dispute resolution throughout the Executive Branch. These initiatives include the *Administrative Dispute Resolution Act of 1996*; the *Civil Rights Act of 1991*; the *National Performance Review*; Executive Order 12871, *Labor Management Partnerships*; and the Equal Employment Opportunity Commission's regulations.

The *Guide* provides an overall picture of how the most common forms of ADR are being implemented in Federal agencies. It summarizes a number of current ADR programs (including alternative discipline programs), and it includes descriptions of shared neutrals programs where agencies have collaborated to reduce the costs of ADR. It provides a listing of training and resources available from Federal and non-Federal sources. It also provides selected ADR-related web sites. The information in the *Guide* will be helpful to you as you explore the feasibility and appropriateness of implementing alternative dispute resolution programs in your organization or enhancing the one you may have now. As you review the agency programs and other information in the *Guide*, bear in mind that there is no one correct technique or process. The success of any ADR program is dependent upon designing a system which reflects the unique needs of the organization and its employees.

## Section I: Alternative Dispute Resolution Techniques and Agency Practices

This section of the *Resource Guide* provides information on agency ADR programs. The section begins with summary descriptions of seventeen existing ADR techniques or methods arranged in alphabetical order. This is not an all-inclusive list of techniques, but rather describes those that are most common in the Federal Government.

The descriptions of techniques are followed by summaries of agency ADR programs. The summaries are arranged in alphabetical order according to the name of the agency involved (as noted at the top of the summary page). The type of ADR technique(s) used in that program is noted in the upper left-hand corner of the summary page. Specific techniques or agencies can be located by referring to the [Index](#).

### ADR Techniques or Methods

**Binding arbitration** involves the presentation of a dispute to an impartial or neutral individual (arbitrator) or panel (arbitration panel) for issuance of a binding decision. Unless arranged otherwise, the parties usually have the ability to decide who the individuals are that serve as arbitrators. In some cases, the parties may retain a particular arbitrator (often from a list of arbitrators) to decide a number of cases or to serve the parties for a specified length of time (this is common when a panel is involved). Parties often select a different arbitrator for each new dispute. A common understanding by the parties in all cases, however, is that they will be bound by the opinion of the decision maker rather than simply be obligated to "consider" an opinion or recommendation. Under this method, the third party's decision generally has the force of law but does not set a legal precedent. It is usually not reviewable by the courts.

Binding arbitration is a statutorily-mandated feature of Federal labor management agreements. Consistent with statute, the parties to such agreements are free to negotiate the terms and conditions under which arbitrators are used to resolve disputes, including the procedures for their selection. Some agreements may provide for "permanent" arbitrators and some may provide for arbitration panels.

**Conciliation** involves building a positive relationship between the parties to a dispute. A third party or conciliator (who may or may not be totally neutral to the interests of the parties) may be used by the parties to help build such relationships.

A conciliator may assist parties by helping to establish communication, clarifying misperceptions, dealing with strong emotions, and building the trust necessary for cooperative problem-solving. Some of the techniques used by conciliators include providing for a neutral meeting place, carrying initial messages between/among the parties, reality testing regarding perceptions or misperceptions, and affirming the parties' abilities to work together. Since a general objective of conciliation is often to promote openness by the parties (to take the risk to begin negotiations), this method

allows parties to begin dialogues, get to know each other better, build positive perceptions, and enhance trust. The conciliation method is often used in conjunction with other methods such as facilitation or mediation.

**Cooperative problem-solving** is one of the most basic methods of dispute resolution. This informal process usually does not use the services of a third party and typically takes place when the concerned parties agree to resolve a question or issue of mutual concern. It is a positive effort by the parties to collaborate rather than compete to resolve a dispute.

Cooperative problem-solving may be the procedure of first resort when the parties recognize that a problem or dispute exists and that they may be affected negatively if the matter is not resolved. It is most commonly used when a conflict is not highly polarized and prior to the parties forming "hard line" positions. This method is a key element of labor-management cooperation programs.

**Dispute panels** use one or more neutral or impartial individuals who are available to the parties as a means to clarify misperceptions, fill in information gaps, or resolve differences over data or facts. The panel reviews conflicting data or facts and suggests ways for the parties to reconcile their differences. These recommendations may be procedural in nature or they may involve specific substantive recommendations, depending on the authority of the panel and the needs or desires of the parties. Information analyses and suggestions made by the panel may be used by the parties in other processes such as negotiations.

This method is generally an informal process and the parties have considerable latitude about how the panel is used. It is particularly useful in those organizations where the panel is non-threatening and has established a reputation for helping parties work through and resolve their own disputes short of using some formal dispute resolution process.

**Early neutral evaluation** uses a neutral or impartial third party to provide a non-binding evaluation, sometimes in writing, which gives the parties to a dispute an objective perspective on the strengths and weaknesses of their cases. Under this method, the parties will usually make informal presentations to the neutral to highlight the parties' cases or positions. The process is used in a number of courts across the country, including U.S. District Courts.

Early neutral evaluation is appropriate when the dispute involves technical or factual issues that lend themselves to expert evaluation. It is also used when the parties disagree significantly about the value of their cases and when the top decision makers of one or more of the parties could be better informed about the real strengths and weaknesses of their cases. Finally, it is used when the parties are seeking an alternative to the expensive and time-consuming process of following discovery procedures.

**Facilitation** involves the use of techniques to improve the flow of information in a meeting between parties to a dispute. The techniques may also be applied to decision-making meetings where a specific outcome is desired (e.g., resolution of a

conflict or dispute). The term "facilitator" is often used interchangeably with the term "mediator," but a facilitator does not typically become as involved in the substantive issues as does a mediator. The facilitator focuses more on the process involved in resolving a matter.

The facilitator generally works with all of the meeting's participants at once and provides procedural directions as to how the group can move efficiently through the problem-solving steps of the meeting and arrive at the jointly agreed upon goal. The facilitator may be a member of one of the parties to the dispute or may be an external consultant. Facilitators focus on procedural assistance and remain impartial to the topics or issues under discussion.

The method of facilitating is most appropriate when: (1) the intensity of the parties' emotions about the issues in dispute are low to moderate; (2) the parties or issues are not extremely polarized; (3) the parties have enough trust in each other that they can work together to develop a mutually acceptable solution; or (4) the parties are in a common predicament and they need or will benefit from a jointly-acceptable outcome.

**Factfinding** is the use of an impartial expert (or group) selected by the parties, an agency, or by an individual with the authority to appoint a factfinder in order to determine what the "facts" are in a dispute. The rationale behind the efficacy of factfinding is the expectation that the opinion of a trusted and impartial neutral will carry weight with the parties. Factfinding was originally used in the attempt to resolve labor disputes, but variations of the procedure have been applied to a wide variety of problems in other areas as well.

Factfinders generally are not permitted to resolve or decide policy issues. The factfinder may be authorized only to investigate or evaluate the matter presented and file a report establishing the facts in the matter. In some cases, he or she may be authorized to issue either a situation assessment or a specific non-binding procedural or substantive recommendation as to how a dispute might be resolved. In cases where such recommendations are not accepted, the data (or facts) will have been collected and organized in a fashion that will facilitate further negotiations or be available for use in later adversarial procedures.

**Interest-based problem-solving** is a technique that creates effective solutions while improving the relationship between the parties. The process separates the person from the problem, explores all interests to define issues clearly, brainstorms possibilities and opportunities, and uses some mutually agreed upon standard to reach a solution. Trust in the process is a common theme in successful interest-based problem-solving.

Interest-based problem-solving is often used in collective bargaining between labor and management in place of traditional, position-based bargaining. However, as a technique, it can be effectively applied in many contexts where two or more parties are seeking to reach agreement.

**Mediated arbitration**, commonly known as "med-arb," is a variation of the arbitration procedure in which an impartial or neutral third party is authorized by the disputing parties to mediate their dispute until such time as they reach an impasse. As part of the process, when impasse is reached, the third party is authorized by the parties to issue a binding opinion on the cause of the impasse or the remaining issue(s) in dispute.

In some cases, med-arb utilizes two outside parties--one to mediate the dispute and another to arbitrate any remaining issues after the mediation process is completed. This is done to address some parties' concerns that the process, if handled by one third party, mixes and confuses procedural assistance (a characteristic of mediation) with binding decision making (a characteristic of arbitration). The concern is that parties might be less likely to disclose necessary information for a settlement or are more likely to present extreme arguments during the mediation stage if they know that the same third party will ultimately make a decision on the dispute.

Mediated arbitration is useful in narrowing issues more quickly than under arbitration alone and helps parties focus their resources on the truly difficult issues involved in a dispute in a more efficient and effective manner.

**Mediation** is the intervention into a dispute or negotiation of an acceptable, impartial and neutral third party who has no decision-making authority. The objective of this intervention is to assist the parties in voluntarily reaching an acceptable resolution of issues in dispute. Mediation is useful in highly-polarized disputes where the parties have either been unable to initiate a productive dialogue, or where the parties have been talking and have reached a seemingly insurmountable impasse.

A mediator, like a facilitator, makes primarily procedural suggestions regarding how parties can reach agreement. Occasionally, a mediator may suggest some substantive options as a means of encouraging the parties to expand the range of possible resolutions under consideration. A mediator often works with the parties individually, in caucuses, to explore acceptable resolution options or to develop proposals that might move the parties closer to resolution.

Mediators differ in their degree of directiveness or control while assisting disputing parties. Some mediators set the stage for bargaining, make minimal procedural suggestions, and intervene in the negotiations only to avoid or overcome a deadlock. Other mediators are much more involved in forging the details of a resolution. Regardless of how directive the mediator is, the mediator performs the role of catalyst that enables the parties to initiate progress toward their own resolution of issues in dispute.

**Minitrials** involve a structured settlement process in which each side to a dispute presents abbreviated summaries of its cases before the major decision makers for the parties who have authority to settle the dispute. The summaries contain explicit data about the legal basis and the merits of a case. The rationale behind a minitrial is that if the decision makers are fully informed as to the merits of their cases and that of the opposing parties, they will be better prepared to successfully engage in

settlement discussions. The process generally follows more relaxed rules for discovery and case presentation than might be found in the court or other proceeding and usually the parties agree on specific limited periods of time for presentations and arguments.

A third party who is often a former judge or individual versed in the relevant law is the individual who oversees a minitrial. That individual is responsible for explaining and maintaining an orderly process of case presentation and usually makes an advisory ruling regarding a settlement range, rather than offering a specific solution for the parties to consider. The parties can use such an advisory opinion to narrow the range of their discussions and to focus in on acceptable settlement options--settlement being the ultimate objective of a minitrial.

The minitrial method is a particularly efficient and cost effective means for settling contract disputes and can be used in other cases where some or all of the following characteristics are present: (1) it is important to get facts and positions before high-level decision makers; (2) the parties are looking for a substantial level of control over the resolution of the dispute; (3) some or all of the issues are of a technical nature; and (4) a trial on the merits of the case would be very long and/or complex.

**Negotiated rulemaking**, commonly known as "reg-neg," brings together representatives of various interest groups and a Federal agency to negotiate the text of a proposed rule. The method is used before a proposed rule is published in the *Federal Register* under the *Administrative Procedures Act* (APA). The first step is to set up a well-balanced group representing the regulated public, public interest groups, and state and local governments, and join them with a representative of the Federal agency in a Federally chartered advisory committee to negotiate the text of the rule. If the committee reaches consensus on the rule, then the Federal agency can use this consensus as a basis for its proposed rule.

While reg-neg may result in agreement on composition of a particular rule an agency may wish to propose, when the rule is proposed it is still subject to public review under the APA. This is the last step in the process. Federal agency experience is that the process shortens considerably the amount of time and reduces the resources needed to promulgate sensitive, complex, and far-reaching regulations--often regulations mandated by statute.

**Settlement conferences** involve a pre-trial conference conducted by a settlement judge or referee and attended by representatives for the opposing parties (and sometimes attended by the parties themselves) in order to reach a mutually acceptable settlement of the matter in dispute. The method is used in the judicial system and is a common practice in some jurisdictions. Courts that use this method may mandate settlement conferences in certain circumstances.

The role of a settlement judge is similar to that of a mediator in that he or she assists the parties procedurally in negotiating an agreement. Such judges play much stronger authoritative roles than mediators, since they also provide the parties with specific substantive and legal information about what the disposition of the case

might be if it were to go to court. They also provide the parties with possible settlement ranges that could be considered.

**Non-binding arbitration** involves presenting a dispute to an impartial or neutral individual (arbitrator) or panel (arbitration panel) for issuance of an advisory or non-binding decision. This method is generally one of the most common quasi-judicial means for resolving disputes and has been used for a long period of time to resolve labor/management and commercial disputes. Under the process, the parties have input into the selection process, giving them the ability to select an individual or panel with some expertise and knowledge of the disputed issues, although this is not a prerequisite for an individual to function as an arbitrator. Generally, the individuals chosen are those known to be impartial, objective, fair, and to have the ability to evaluate and make judgments about data or facts. The opinions issued by the third party in such cases are non-binding; however, parties do have the flexibility to determine, by mutual agreement, that an opinion will be binding in a particular case.

Non-binding arbitration is appropriate for use when some or all of the following characteristics are present in a dispute: (1) the parties are looking for a quick resolution to the dispute; (2) the parties prefer a third party decision maker, but want to ensure they have a role in selecting the decision maker; and (3) the parties would like more control over the decision making process than might be possible under more formal adjudication of the dispute.

**Ombudsmen** are individuals who rely on a number of techniques to resolve disputes. These techniques include counseling, mediating, conciliating, and factfinding. Usually, when an ombudsman receives a complaint, he or she interviews parties, reviews files, and makes recommendations to the disputants. Typically, ombudsmen do not impose solutions. The power of the ombudsman lies in his or her ability to persuade the parties involved to accept his or her recommendations. Generally, an individual not accepting the proposed solution of the ombudsman is free to pursue a remedy in other forums for dispute resolution.

Ombudsmen may be used to handle employee workplace complaints and disputes or complaints and disputes from outside of the place of employment, such as those from customers or clients. Ombudsmen are often able to identify and track systemic problems and suggest ways of dealing with those problems.

**Partnering** is used to improve a variety of working relationships, primarily between the Federal Government and contractors, by seeking to prevent disputes before they occur. The method relies on an agreement in principle to share the risks involved in completing a project and to establish and promote a nurturing environment. This is done through the use of team-building activities to help define common goals, improve communication, and foster a problem-solving attitude among the group of individuals who must work together throughout a contract's term.

Partnering in the contract setting typically involves an initial partnering workshop after the contract award and before the work begins. This is a facilitated workshop involving the key stakeholders in the project. The purpose of the workshop is to

develop a team approach to the project. This generally results in a partnership agreement that includes dispute prevention and resolution procedures.

**Peer review** is a problem-solving process where an employee takes a dispute to a group or panel of fellow employees and managers for a decision. The decision may or may not be binding on the employee and/or the employer, depending on the conditions of the particular process. If it is not binding on the employee, he or she would be able to seek relief in traditional forums for dispute resolution if dissatisfied with the decision under peer review. The principle objective of the method is to resolve disputes early before they become formal complaints or grievances.

Typically, the panel is made up of employees and managers who volunteer for this duty and who are trained in listening, questioning, and problem-solving skills as well as the specific policies and guidelines of the panel. Peer review panels may be standing groups of individuals who are available to address whatever disputes employees might bring to the panel at any given time. Other panels may be formed on an ad hoc basis through some selection process initiated by the employee, e.g., blind selection of a certain number of names from a pool of qualified employees and managers.

## Agriculture

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Department of Agriculture's Conflict Prevention and Resolution Center was established in 1998, and has a two-part focus. First, it spearheads efforts to ensure that supervisors and managers throughout the Department receive appropriate training and other assistance to improve their skills in conflict resolution. Second, it develops policy and programs to ensure that a full range of ADR techniques are available for resolving workplace and program conflicts. The primary ADR approach currently in use in the Department is mediation, although current efforts are looking to utilize other ADR techniques.

#### ***Background/Objective***

In February, 1997 a report looking at civil rights issues throughout the Department described an unsatisfactory and overloaded EEO complaint system, and cited inadequate progress in making ADR available to resolve workplace conflicts of all kinds. The report found that a coordinated Departmental ADR and conflict management effort was needed. It cited the need to address conflicts at the earliest stages, before the formal dispute resolution systems become involved. The team implementing the report recommended the creation of a centralized conflict resolution office, and that it not be attached to civil rights or human resources -- the offices traditionally responsible for workplace dispute resolution -- to ensure neutrality. The Center is part of the Office of Planning and Coordination under the Assistant Secretary for Administration.

In January 1999, the Secretary established an ADR Working Group. The working group is comprised of senior level officials from each agency/mission area and national union representatives, and is subdivided into smaller groups focusing on such issues as qualifications of neutrals, marketing of ADR, education, evaluation and tracking, agricultural mediation, and ADR in other program disputes. The senior level officials on the working group have become USDA's ADR champions. Products created out of the working group include: an ADR awareness video, which is also available through video streaming; an ADR Factsheet, soon to be distributed to all USDA employees; standards for neutrals; evaluation and tracking criteria; and procedures for use of ADR in contract disputes and other program disputes. All USDA agencies are scheduled to have ADR programs in place for their employees by June 2000.

### ***Duration/Current Activity***

The Center issued policy and is laying the groundwork for a Department-wide shared neutrals program, finalizing Department-wide training guidance and modules, providing some direct ADR services and developing ADR regulations. The Center is actively involved in providing guidance and assistance to agencies with implementation and operation of their ADR programs.

### ***Rules Governing the Activity***

The current policy, issued March 23, 2000, expands parameters and guidance for the use of ADR in workplace and program disputes, and offers general guidelines governing the use of ADR within the Department. The policy outlines the roles and responsibilities of Subcabinet Officials and Agency Administrators, the General Counsel and the Center.

### ***Contact***

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## **Agriculture**

### **Animal and Plant Health Inspection Service**

#### **ADR Technique: Mediation**

##### ***How the ADR System Works***

The Conflict Prevention and Resolution (CPR) Program provides mediation, conflict management and resolution services on a worldwide basis to all agency employees. It provides participants an alternative to more formal avenues of redress available. Referrals to mediation are accepted from a party to a conflict or from a third party. A mediator is selected from among the 6 staff mediators, the few collateral duty mediators in the agency, or from one of the many international Shared Neutrals programs. All costs associated with CPR services are born by the CPR Program. The agency assures adequate annual funding for services provided upon request. Mediation sessions are conducted offsite, when possible, and minimal records are

maintained. In addition to one-on-one mediation services, the CPR staff provides multi-party mediations, consultation and on-point training. This Program also provides specially designed conflict management and communication skills workshops for agency employees, team leaders, intact work teams and supervisors and are included in agency training workshops.

### ***Background/Objective***

The CPR Program was developed in 1996 in response to employee surveys that identified the willingness of employees to use alternative dispute resolution and identified the types of disputes occurring in the APHIS workforce. The Program goals include: (1) create an environment of open communication, (2) resolve concerns informally within shortened time frames, (3) build the capacity for employees to take responsibility for and learn from the resolution of conflicts, (4) provide opportunities for a wider range of creative solutions in the resolution of disputes, and (5) strengthen the ability of the agency to carry out its mission.

### ***Duration/Current Activity***

Resolution during the last 18 months is at 100%, about 1500 people are trained in conflict management and communication skills and interviews indicate a significant number of complaints and grievances were avoided as a result of mediation. When the parties are available, the CPR Program provides services within 2 weeks of initial contact. The CPR Program aids other USDA agencies as they establish ADR programs.

### ***Rules Governing the Activity***

The CPR staff works closely with the Labor Relations, Employee Relations, Internal Investigations, Prevention of Violence in the Workplace, and Employee Assistance Programs before providing mediation services. Participation in CPR mediations is voluntary and no agreement is entered into unless both parties agree to the terms. Agreeing to mediation, an employee does not give up his/her right to file a formal complaint or grievance within the appropriate time frames. However, both administrative and negotiated grievance time-frames may be tolled with agreement by appropriate parties.

### ***Contact***

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## **Agriculture Food Safety and Inspection Service**

### **ADR Technique: Ombuds/Mediation**

#### ***How the ADR System Works***

Most employees who work for the Food Safety and Inspection Service (FSIS) work as Federal Inspectors in privately owned meat and poultry slaughter and processing plants with limited telephone access. Therefore, the Voluntary= Dispute Intervention

Program (VDIP) established two toll free lines that employees can use from any telephone to raise any kind of workplace complaint or concern. Program staff serve as ombuds for many types of problems raised, explaining policies and procedures, or referring the issue to the right office. Trained, collateral-duty mediators are available to assist in resolving disputes. After each mediation, the parties receive follow-up calls to assess the success of the resolution and assist with any problems.

### ***Background/Objective***

An agency task force was formed in 1996 to explore the use of mediation in dealing with workplace conflict. The task force involved union and management, and headquarters and field employees, to involve the broadest possible mix of stakeholders.

### ***Duration/Current Activity***

Currently, the program accomplishes about one formal mediation every two weeks, with 18 collateral duty mediators in the field, and 8 in headquarters. Feedback is received from participants through follow-up calls and postcard evaluation questionnaires they send to the policy office. Reviews have been positive. The staff is developing criteria for mediator selection, and has developed a one-day course in conflict management.

### ***Rules Governing the Activity***

Mediators are currently chosen from training, EEO, and labor and employee relations staffs. Additionally, all union Council presidents have been trained and have the option to serve as mediators, as do presidents of other employee organizations. All mediators receive training from a single provider. Cases involving allegations of serious misconduct or criminal activity are not accepted for mediation. If the union is involved in any way in a dispute, the appropriate council president has veto power over proposed mediation (though most view the program favorably).

### ***Contacts***

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## **Agriculture Forest Service**

### **ADR Technique:- Multiple Techniques**

#### ***How the ADR System Works***

The Forest Service's Early Intervention Program (EIP) provides mediation and facilitation services on a nationwide basis to all agency employees. The Forest Service's 35,000 employees are responsible for managing 192 million acres of forest, grassland, and aquatic ecosystems. As the largest agency within the Department of Agriculture, the Forest Service also has the greatest number of discrimination complaints, which number in the hundreds yearly. The EIP was developed as an alternative method for employees to address working relationship problems, some of

which lead to the filing of discrimination complaints. There are both internal and external mediators available. Presently, about 70 Forest Service employees have been trained and have experience in helping resolve a variety of workplace conflicts. Externally, mediators can be obtained from other USDA agencies, Federal Executive Boards, or from private mediation services.

### ***Background/Objective***

The EIP grew out of increasing dissatisfaction with the other, more formal systems for resolving workplace disputes, primarily the grievance and complaint processes. These processes can be slow, adversarial, and often do not address the underlying causes of the conflict. EIP, on the other hand, is relatively fast and non-adversarial, and the parties directly involved in the conflict are instrumental in its resolution. A mediator assists the parties in crafting an agreement that specifically addresses their problems in working together. Conceived originally as a process for dealing with any type of workplace dispute, EIP has an expanded role as the ADR resource for mediations of discrimination complaints.

### ***Duration/Current Activity***

The EIP has been fully implemented nationwide. The resolution rate for the EIP has consistently been over 80%, and the time elapsed from intake to mediation has averaged 21 days. The average cost for a mediation that lasts from 4-6 hours is about \$1,000 when an internal mediator is used, and about \$1,500 for an external mediator. In Fiscal Year 1999, 459 contacts were made to the EIP. Of that number, 183 mediations were held.

### ***Rules Governing the Activity***

Participation is voluntary for all parties, although management is normally expected to participate. By agreeing to mediation, the employee does not relinquish the right to file a complaint or grievance, and the manager does not give up any authorities. Cases involving serious misconduct or criminal activity may not be appropriate for mediation through the EIP.

### ***Contact***

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## **Agriculture National Finance Center**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

Through the National Finance Center's (NFC) Conflict Prevention and Resolution Program (CPRP), disputing parties can quickly and informally resolve their conflicts using a variety of alternative dispute resolution approaches. Any employee, supervisor, manager or the NFC Director can initiate a request for alternative dispute resolution assistance when he/she feels that there is an issue/concern where a

neutral third party would be of assistance or upon referral by NFC's EEO Counselor in lieu of the traditional counseling activities during the pre-complaint processing stage of the EEO Complaint Process. The program offers a combination of conciliation and/or mediation: (a) Internal Conciliation: using Conflict Management Specialists (CMS) who are members of the Workforce Services Staff (WSS). The staff serves as an independent extended arm of the NFC Director, with the staff's Chief serving as an ombudsman and chief administrator of the agency's CPRP. The staff's primary role is to work closely with managers, supervisors, and employees to resolve disputes at their earliest stages and to assist in the development of a variety of programs and activities designed to prevent and/or manage conflict. The program also uses Conciliators, a group of trained NFC managers with proven resolution skills, who serve as internal conciliators under a collateral assignment. They are assigned to work with disputing parties to clarify issues and assist in identifying interest-based solutions. They provide additional assistance by participating in the formal mediation process as an objective third-party on unresolved cases, to continuously encourage resolution and ensure that solutions meet the interest and needs of both parties. (b) Mediation: as a voluntary process, which typically occurs after unsuccessful efforts at resolving conflict using conciliation. The disputing parties may choose internal or external mediators to assist in resolving the dispute.

### ***Background/Objective***

In October 1997, the NFC instituted a "Morale Improvement Program" by establishing the Workforce Service Staff (WSS) whose core functions entail eliminating the causes of low morale by putting in place an effective, expeditious process for informally resolving any type of conflict that may arise in the workplace, and instituting new programs or improving existing programs to significantly improve morale. The WSS Chief is charged with not only providing an informal arena to resolve formal employee grievances, appeals and complaints, but to simultaneously eliminate the source of the problems at the root cause, by using a wide variety of conflict prevention and resolution approaches, including ADR, to make the agency's resolution efforts more efficient and effective.

While some components of the CPRP offer dispute resolution through corrective action or remedial measures, other programs focus on prevention through re-education processes, and recognizing and awarding employees who accept the challenge to improve employer-employee relationships. Some early intervention and prevention programs are: The NFC-Inclusion University whose primary purpose is to increase diversity awareness through a semester based self-education program which incorporates facilitated dialogue sessions, which in turn, increase management and employee communication competencies. Participants receive credit for their studies which count towards a special agency degree at either the Associate, Bachelor, Master, or Doctorate level. The Work Environment Analysis Program can prevent multiple complaints in a work area from occurring. The process may be invoked by employee, supervisor, manager, or by the NFC director requesting assistance from the WSS to initiate a review of an entire organization in order to resolve group issues of concern that may be negatively affecting morale and productivity before they become (multiple) complaints. The Work Unit Appreciation Program recognizes work units as they steadily progress as a motivated team and improve the morale and productivity of their organization. The employees conduct self-evaluations of their

respective work units and recognition is based on their collective assessment. Other programs such as the Discipline Prevention Program and the Mentor Program are developed and awaiting implementation. All of these programs are innovative in scope and they challenge and expand the very definition of alternative dispute resolution.

### ***Duration/Current Activity***

Since the WSS was established in October 1997, approximately 82% of all cases that were processed through the CPRP were either resolved through conciliation, mediation, or withdrawn without further action. As a result of the WSS conciliation, all previous ULPs were resolved, and only 4 have been filed since the establishment of WSS; of those filed, 3 were resolved in the conciliatory stage by the WSS. Only one ULP remains unresolved. Additionally, the NFC experienced a 31 percent reduction of the number of EEO complaints over a period of 15 months.

### ***Rules Governing the Activity***

The election to use conciliation and/or mediation is voluntary on the part of the aggrieved employee. However, agency supervisors and managers have a duty to cooperate in the ADR process once it has been determined that it is a matter appropriate for ADR. The American Federation of Government Employees, Local 2341 has entered into a labor/management partnership agreement wherein the parties jointly agree to initially offer and use the NFC's CPRP, namely internal conciliation, external mediation, and the services of the CMS to settle concerns/conflicts of bargaining unit employees. The program is governed by policies and procedures set by the agency.

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## **Agriculture Natural Resources Conservation Service**

### ***How the ADR System Works***

The Natural Resources Conservation Service (NRCS) ADR Program serves as the focal point for early intervention/resolution of workplace and program disputes. The program also works closely with the Office of Civil Rights and Human Resource Management and provides ADR services in support of the EEO complaint and grievance processes. In an effort to provide educational opportunities, the program developed and offers conflict management training designed to help supervisory and non-supervisory employees enhance their current ability to manage conflict.

The ADR program was established through the support of National Leadership and program design was developed and recommended by a design committee comprised of members from labor, management, and employees from various disciplines throughout the country.

### ***Background/Objective***

The purpose of the ADR Program is to resolve workplace and program disputes early; improve working relationships with and among employees, customers and partners; save time and resources; and create mutual agreements.

### ***Duration/Current Activity***

The NRCS ADR Program was implemented agency-wide in June 2000. The diverse staff of 5 is complemented by 20 collateral duty mediators located at headquarters and in field locations throughout the U.S. The program uses both internal and external mediators. Policy is in place, a web-site has been established, briefings are ongoing, and conflict management training workshops complement the program.

### ***Rules Governing the Activity***

There are few rules. Participation in ADR is completely voluntary. By participating in ADR, employees do not give up the right to file a formal complaint or grievance.

### ***Contact***

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## **Agriculture Research, Education, and Economics**

### **ADR Techniques: Mediation**

#### ***How the ADR System Works***

The Cooperative Resolution Program (CRP) is an ADR Program that has been implemented in the Research, Education, and Economics (REE) mission area. The CRP is a voluntary, non-adversarial approach for employees, supervisors, and managers to handle conflict in the workplace. Disputes that arise in the workplace often are the result of miscommunication or a difference in perception. Through the assistance of a mediator, who serves as a neutral, the parties have an opportunity to be heard and to create their own resolution to the situation. CRP seeks to find a workable solution to the dispute and promotes a positive working relationship between the parties. The CRP is preventive -- resolving differences in a cooperative approach by working together to craft mutually agreed upon solutions to resolve the differences.

#### ***Background/Objective***

Passage of the Administrative Dispute Resolution Act and publication of Vice President Gore's Report of the National Performance Review were the two catalysts for creation of the program. Emphasis is on building communication and improving working relationships, which will prevent future conflict. The CRP focuses not on blame, but looking at the future.

#### ***Duration/Current Activity***

Emphasis is being placed on conflict management training for all employees. The

Program Manager developed and presents a conflict management class to REE employees nationwide. The training is an opportunity to provide an understanding of the sources of conflict, identify ways of settling conflict, and develop communication techniques to prevent conflict. The training also discusses the Cooperative Resolution Program and how it can help in building communication and prevent conflict from escalating.

### ***Rules Governing the Activity***

The Secretary of Agriculture established the Department of Agriculture's policy on the use of Alternative Dispute Resolution, on March 23, 2000, to resolve workplace and program disputes within USDA. Any employee in the REE mission area may request a mediation. Employees may have a union representative or an attorney present during mediation if requested.

### ***Contacts***

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## Air Force

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Air Force uses mediation as a technique to resolve all types of employment disputes. Emphasis is placed on early intervention, generally during the informal stages of processing. However, mediation is offered at any stage.

#### ***Background/Objectives***

The Air Force was one of the first Federal agencies to use ADR beginning in 1989 with EEO complaints. Use has since been expanded to all types of disputes including negotiated and administrative grievances, unfair labor practice charges, and Merit System Protection Board appeals. Over 1,500 mediators have been trained including EEO counselors, personnel specialists, and management and union officials.

#### ***Duration/Current Activity***

In Fiscal Year 96, of the total 2,269 civilian disputes mediated, 1,690 (74%) were resolved. The Air Force's Military Equal Opportunity Office, which handles military equal opportunity and treatment complaints, uses mediation to resolve these disputes. Air Force participates in the Department of Defense shared neutrals project which is administered by the Department of Defense Office of Hearings and Appeals.

#### ***Rules Governing the Activity***

Participation in mediation is voluntary. Agreements are mutually acceptable to the parties. If no agreement is reached, the original dispute process continues. Discussions and settlement proposals are confidential and are not used to influence a decision if the process goes forward. Settlement agreements are reviewed by civilian personnel and legal staffs to assure regulatory and legal sufficiency.

#### ***Contact***

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## Air Force Charleston Air Force Base

### **ADR Technique: Mediation/Arbitration**

#### ***How the ADR System Works***

The ADR program was developed to settle grievances, both the Negotiated Grievance Procedure (NGP) and the Administrative Grievance Procedure (AGP), Unfair Labor Practices and any other mutually agreed upon issue. Eight members of the bargaining unit and eight members of management were selected by their respective

leadership. The sixteen-member team received training in dispute resolution. Team members serve for a minimum of two years. Each ADR request is heard by a four-member panel (2 management/2 labor) from members of the ADR team. Mediation is the primary goal of ADR, however if that fails arbitration through consensus settles the issue. Mediation/arbitration decisions of the panel are binding on all parties.

### ***Background/Objective***

The program was designed to implement a problem-solving process that would prevent and resolve typical workplace disputes before they escalate. The goal is to reduce conflict and channel it into constructive action, where positive change can be made thus enhancing mission readiness. The objectives are as follows: Develop a creative process to resolve conflict; build a foundation of trust on both sides; focus on the issues, not people or personalities; be open to alternatives and compromise; explore all interests, and render a fair and equitable decision. A significant unanticipated benefit arose between the parties during program development - trust and communication. The parties working together towards a common goal--a better way to resolve disputes--actually prevented disputes from arising in the first place.

### ***Duration/Current Activity***

Dispute resolution time has been reduced dramatically. No third party actions have been required since program inception. With disputes being resolved in-house, the process is not dependent on the availability and timeliness of third parties or outside agencies.

### ***Rules Governing the Activity***

When used to settle a grievance under the NGP, steps one and two must be completed. At that time the employee elects either step 3 or ADR. For the AGP the employee chooses either the grievance procedures or ADR at the initial outset. If ADR is chosen the employee signs a memorandum of agreement acknowledging that ADR is final and binding on both the employee and management. If an employee under the NGP choose to stop the ADR process once elected, then the decision handed down by the step 2 official will prevail. This process was codified in the recently negotiated MOA with the local union (AFGE)

### ***Contact***

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**Air Force**  
**Kirtland Air Force Base**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The mediation process is available through the Kirtland Air Force Base Mediation Office to help resolve any workplace conflict. It is a voluntary and confidential

process which may be initiated by either an employee or a management official. The office staff serves as mediators. The goal is to facilitate resolution of conflict before it reaches a formal dispute process such as a grievance or an EEO complaint. However, mediation is also available at any stage of a formal process and in no way impedes an employee's grievance or complaint rights. The time requirements for those processes are either held in abeyance or extended pending the outcome of the mediation. If necessary, mediation may encompass more than one meeting to achieve resolution.

### ***Background/Objective***

The goal is to provide the Kirtland Air Force Base community with an alternative to traditional methods of resolving disputes and to provide a forum for those workplace conflicts that would not normally be addressed by a formal process. After a process action team evaluated the grievances and EEO complaints being handled on the base, a pilot program was established that has evolved into a Mediation Office which reports to the base Chief EEO Counselor. The staff has received mediation skills training through the Albuquerque Mediation Alliance, the Justice Center of Atlanta, CDR Associates (Boulder, CO), and previous job training and education.

### ***Duration/Current Activity***

The Office opened on 1 December 1993. In addition to 2-party mediations, the Office conducts workgroup interventions, offers advisory services to individuals, and provides outreach education in style differences, communication skills and conflict resolution.

### ***Rules governing the Activity***

A Memorandum of Understanding (MOU) was negotiated with the local union (AFGE) allowing the staff to mediate grievances. The MOU provides that the union will receive a copy of the resolution agreement with the employee's written consent. Otherwise, all agreements derived through the mediation process are confidential. Settlements of pending EEO complaints and grievances are reviewed by a panel comprised of a representative from the Judge Advocate General, EEO, and personnel offices to ensure legal compliance.

### ***Contacts***

Barbara A. Powelson and G.M. "Rav" Nicholson, Kirtland AFB Mediation Office, 377 ABW/CCM, 2000 Wyoming Blvd., SE, Kirtland AFB, NM 87117; Telephone: (505) 846-7552; FAX: (505) 846-0985.

## **Air Force Lackland Air Force Base**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Alternative Dispute Resolution Program provides for mediation of disputes between management and employees and designated employee representatives. The ADR Program staff identifies the relevant parties to a dispute and provides a pre-mediation briefing at which all participants are introduced to the mediation process.

At the subsequent mediation conference, trained in-house mediators guide the parties through the mediation process, assisting them to reach a mutually acceptable resolution, if at all possible. A substantial number of collateral duty mediators compose the mediator staff. When resolution is achieved, the parties are encouraged to prepare a brief, specific agreement. When resolution is not achieved, the parties are informed of their rights in continuing the processing of a grievance or EEO complaint should they so choose.

### ***Background/Objective***

The program is the outgrowth of efforts to resolve an impasse between management and labor contract negotiating teams. ADR, particularly mediation, was seen as a way to effectively resolve both this impasse and a variety of workplace disputes in general. The goals of the program include: (1) providing a simpler, friendlier, less costly, less adversarial and more timely avenue for resolving workplace disputes; (2) reducing the number of EEO complaints, and grievances; and (3) fostering improved labor-management relations through increased communication between employees and supervisors and between management staff and labor representatives.

### ***Duration/Current Activity***

Almost 200 mediations have been conducted since the program was instituted toward the end of Fiscal Year 1996 with a resolution rate of 70% or better.

### ***Rules Governing the Activity***

Cases referred to mediation may involve EEO issues, grievances submitted either through the Negotiated Grievance Procedure as provided by the labor agreement or through the agency grievance procedure, or other workplace issues and disagreements which have not been resolved. All mediators are agency employees and receive extensive training in ADR and mediation techniques.

### ***Contact***

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## **Air Force McClellan Air Force Base**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The McClellan ADR Program was originally designed to offer mediation during the informal stage of the EEO complaint process. The program has expanded to include union grievances, military interpersonal disputes, and conflicts between managers. Employees access mediation through their union, EEO, or the Organizational Health Center. To ensure process continuity and continuing in-house training, McClellan practices co-mediation. An experienced mediator is teamed up with a novice to offer coaching, share lessons learned, and provide hands on experience.

**Background/Objective**

The ADR program is an informal, voluntary, conflict resolution process that allows parties to reach an agreement of their own design. If resolution is not reached, the complaint continues through formal channels.

**Duration/Current Activity**

To date, McClellan has over 20 trained mediators. A partnership with the Bureau of Land Management allows for both agencies to share neutrals. McClellan will continue to offer mediation throughout the time needed to achieve a scheduled base closure.

**Rules Governing the Activity**

The program is designed after the Alternative Dispute Resolution Program Plan provided by Air Force Mediation Center and the Department of the Air Force ADR Program. The program is endorsed by the commander, senior staff, unions, and the Partnership Council.

**Contact**

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**Air Force  
Tinker Air Force Base****ADR Technique: Mediation/Facilitation****How the ADR System Works**

ADR at Tinker Air Force Base is considered an umbrella spanning all complaint processes, accessible by referral. The employee or management official identifies a workplace problem. The employee/manager is encouraged to raise the problem through the chain of command/supervision. The employee/manager may contact his/her supervisor, the Equal Employment Opportunity Office, Civilian Personnel, Inspector General, Local Union, Chaplain, Employee Assistance Program Office or the Alternative Dispute Program Office about the Tinker ADR process. The official contacted refers the issue either to the appropriate office or the ADR office. The ADR Office discusses the matter with the employee/manager to determine the feasibility of using ADR to resolve the matter. The ADR Office determines whether to offer one of the methods of ADR for dispute resolution (mediation or facilitation). The parties agree to use the method offered or to use traditional dispute resolution procedures. If the parties choose ADR, they are briefed on their roles, responsibilities, what to expect, and how to be best prepared for ADR. The parties then attempt to resolve the disputed issue(s) in good faith and by full and open communication, respecting the rights of each party to present his/her perspective.

**Background/Objective**

The Tinker AFB ADR program began in 1998 with a design process outlined in the Air Force Materiel Command ADR Program Design Workshop at Wright-Patterson

AFB OH. The Secretary of the Air Force General Counsel gave a presentation on the uses and benefits of ADR in workplace disputes. From that presentation, the Tinker AFB Chief Labor Law Officer presented the concept of ADR to the Tinker Commander and senior staff. The commander decided the benefits of ADR could enhance the working environment at Tinker, thus the Tinker ADR Program Office was established to handle employee and agency grievances. After the successes of the first year, the program was expanded to cover all complaint processes. The goals of the Tinker ADR program are to help manage conflict effectively by using ADR, when appropriate, to resolve military and civilian workplace disputes; promote consensual and non-adversarial resolution of workplace disputes; resolve problems giving rise to disputes, as well as resolving the disputes themselves; provide additional tools to resolve disputes at the earliest possible time and at the lowest possible organizational level; and avoid dispute processing costs whenever possible.

### ***Duration/Current Activity***

At Tinker AFB, mediation was used successfully in the EEO process beginning in 1994. In this setting, trained mediators working in the EEO office sat down with the complainant and respondent and, in many instances, reached a satisfactory conclusion that resulted in the EEO complaint being withdrawn by the complainant. In 1999, the Tinker ADR Program Office was established and mediation, as one form of ADR, was used in grievances along with other disputes such as those between coworkers. In 2000, the Tinker ADR Program Office became responsible for all ADR requests concerning workplace disputes. Additional Tinker ADR Program responsibilities are training of collateral mediators, workforce education on ADR, outsourcing of mediators, and various other program development concepts.

### ***Rules Governing the Activity***

A Memorandum of Agreement (MOA) was negotiated with the local union in accordance with the Air Force Materiel Command Master Labor Agreement allowing mediation of union grievances at the informal stage. The MOA established a partnership between management and union officers in the area of ADR. All agreements derived through the ADR process are confidential and reviewed by a representative from the Staff Judge Advocate Office, Equal Employment Office, and the Civilian Personnel Office before implementation to ensure legal and technical compliance.

### ***Contacts***

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## Army Anniston Army Depot

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The ADR Program at Anniston Army Depot encompasses three specific programs, Alternative to Traditional Discipline (ATD), the Joint Dispute Resolution (JDR) Program, and Mediation.

The ATD Program uses a form of factual discovery in which the employee, his/her representative, the proposing management official, and a Personnel Management Specialist meet prior to initiating the traditional discipline process. They discuss the facts in the case, define the traditional disciplinary penalty, and then negotiate a possible alternative to the traditional disciplinary penalty. Agreements are reduced to writing and include a waiver of any appeal, grievance, or complaint rights. The JDR Program is a process that allows management and the union to resolve and/or prevent their own disputes without outside assistance. It is formalized as a step in the negotiated grievance procedure that allows the employer or union to refer an unfavorable grievance decision to a JDR Committee. This JDR Committee is a peer review panel comprised of two union-selected employees and two management-selected employees from a list of trained panel members. In grievances involving formal disciplinary actions, the panel renders a recommendation for acceptance/rejection to the appropriate director. In all other grievances, the panel renders a written binding decision. Mediation is available to resolve any workplace dispute.

#### ***Background/Objective***

Both ATD and JDR were established in an effort to reduce nonproductive time and to streamline the disciplinary and grievance processes. The mediation program was initiated to reduce processing time for EEO complaints and to provide an alternative means of solving other workplace problems that were not already in established grievance or disciplinary channels.

#### ***Duration/Current Activity***

The ATD program was initiated in 1992. Through FY 1999, it has been offered in 251 cases with 174 cases being resolved with an ATD agreement. The JDR program was instituted in 1996. Twenty-three cases have been referred with 14 cases being resolved. Mediation has been in use since January 1, 1998, and has been offered in ten cases of which five were resolved. Without a doubt, ATD has produced the benefit of swifter resolution of disputes with a very low recidivism rate. The JDR Program has yielded similar results for non-disciplinary grievances. Mediation has proven very successful in those cases where the parties have agreed to use the process.

#### ***Rules Governing the Activity***

ATD must be offered in all cases involving formal discipline. Agreements are reduced to writing and must include a waiver of rights. The panel members for JDR must be

from a different work unit than that involved in the dispute. The use of mediation is voluntary on the part of the employee, but if elected, the appropriate management official must participate.

**Contact**

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**Army**

**Armor Center, Ft. Knox, KY**

**ADR Technique: Multiple Techniques**

**How the ADR System Works**

The Grievance Panel at the U.S. Army Armor Center is used for performance management issues. It is composed of one union member, one management member, and the Civilian Personnel Officer (CPO). The CPO serves as the impartial Chairperson who casts the deciding vote if the two other members cannot reach consensus.

The Partnership Council is used for labor-management matters involving policy. The Council analyzes issues during the policy formulation stage and develops implementing plans that include both labor and management points of view.

**Background/Objective**

The objective of the ADR program is to improve working relationships by resolving disputes in the most effective, cost-efficient manner.

**Duration/Current Activity**

The Grievance Panel has worked effectively and very few grievances have been elevated to a higher level. The Partnership Council has been successful at addressing issues and developing or recommending policy for efficient and effective accomplishment of missions.

**Rules Governing the Activity**

The agency's ADR program is governed by its collective bargaining agreement.

**Contact**

Mike Brown, Labor Relations Specialist, Civilian Personnel Advisory Center, Ft. Knox, KY 40121-5000; Telephone: (502) 624-7688; Email: [brownm@ftknox2-emh3.army.mil](mailto:brownm@ftknox2-emh3.army.mil).

## Army Corps of Engineers

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Corps of Engineers Equal Employment Opportunity (EEO) Alternative Dispute Resolution (ADR) Program method of ADR is mediation to resolve employment related disputes. The EEO office or counselor, whoever is first contacted by the aggrieved, completes the U.S. Army Corps of Engineers (USACE) initial contact sheet as required. If counseling is requested, the EEO Counselor undertakes the counseling inquiry, providing initial information on the USACE EEO ADR programs along with rights and responsibilities. The EEO Officer notifies the ADR Team (EEO Officer, Labor Counselor and Civilian Personnel Advisory Center, and/or Human Resources representatives) of the precomplaint not later than the 9th day. The ADR Team meets not later than the 14th day and the EEO Officer advises the EEO Counselor to offer/not offer USACE EEO ADR. The EEO Counselor informs the aggrieved not later than the 21st day of the counseling he/she will be given the written Election Options to choose, USACE EEO ADR, or EEO Counseling. If the aggrieved elects USACE EEO ADR, the ADR Team meets the EEO Officer and assigns the mediator not later than the 28th day. Mediation is processed within 90 days. The EEO Officer informs the EEO Counselor of the outcome. The EEO Counselor provides final interview and issues notice of right to file not later than the 90th day.

#### ***Background/Objective***

The Equal Employment Opportunity Commission (EEOC) revised its regulation effective November 1999 on federal sector complaints processing, found at 29 Code of Federal Regulations 1614. The revised regulations contained a number of changes to include the requirements for agencies to have an ADR program. Based upon the revised regulations, the Corps' former ADR program referred to as Corps of Engineers Early Resolution Program (CEERP) was revised to reflect EEOC new guidance. On January 2000, USACE implemented a task force of individuals from the EEO, Counsel and HR professionals to revise USACE EEO complaints program to include the ADR program. The new complaints and ADR guidance were issued to the field for implementation on March 2000.

#### ***Duration/Current Activity***

USACE is monitoring the newly revised ADR program and resolution rate. From the timeframe October 99 through June 00, there were 255 pre-complaints, of those complaints, 183 opted traditional counseling, which 83 were settled; 72 opted ADR mediation, which 20 were settled. During this period, there were 82 formal complaints filed, which resulted in a 68% resolution rate, well above the Department of the Army's resolution rate of 51%.

#### ***Rules Governing the Activity***

The USACE EEO ADR Program is in accordance with the EEOC regulations, 29 C.F.R. 1614.102(b)(2).

**Contact**

Wanda G. Raiford, Equal Employment Specialist, 441 "G" Street, NW, Washington, DC 20314. Telephone: (202) 761-8706; FAX (202) 761-0872; Email: [wanda.g.raiford@usace.army.mil](mailto:wanda.g.raiford@usace.army.mil) .

**Army**

**U.S. Army Garrison, Fort Detrick, MD**

**ADR Techniques: Multiple Techniques*****How the ADR System Works***

The Conflict Prevention and Resolution Center (CPRC) at U.S. Army Garrison uses ADR techniques to resolve any and all types of disputes and conflict. The CPRC offers a variety of customized ADR services to fit the individual and particular situation including conciliation, cooperative problem-solving, dispute panels, early neutral evaluation, facilitation, fact finding, interest-based problem solving, mediation, ombudsmen, and peer review.

***Background/Objective***

The CPRC has been in operation since January 1998. The Center uses ADR techniques other than litigation to resolve any and all types of disputes and conflict. The CPRC offers a variety of customized ADR services to fit the individual and particular situation including conciliation, cooperative problem-solving, dispute panels, early neutral evaluation, facilitation, fact finding, interest-based problem solving, mediation, ombudsmen and peer review.

***Duration/Current Activity***

More than 75 complaints have been filed through the CPRC. Most of the complaints have been successfully resolved either through mediation or through the ombuds approach. The remaining are ongoing and involve a departmentwide effort to address workplace issues. Current process involves sensing sessions, mediation, and team-building exercises. In addition, The U.S. Army Garrison purchased an Alpine Tower II to be used for team building, conflict prevention, and training.

***Rules Governing the Activity***

This program is governed by a stand-alone Fort Detrick policy that has been approved by all of the unions operating at that installation.

**Contact**

Mrs. Beverly Smith, Director, CPRC, CDR, USAG, ATTN: MCHD-CR (Mrs. Smith), 568 Dalton Street, Rm. 130A, Fort Detrick, MD 21702-5000; Telephone:(301) 619-2636; FAX: (301) 619-3382; Email: [bev.smith@det.ameoo.army.mil](mailto:bev.smith@det.ameoo.army.mil).

## **Army Fort Monmouth, NJ**

### **ADR Technique: Peer Review**

#### ***How the ADR System Works***

In May 1994, the U.S. Army Communications-Electronics Command (CECOM) instituted the Peer Review Panel as a form of ADR. CECOM and AFGE Local 1904 jointly developed this procedure for handling grievances involving both performance and discipline. The burden of proof lies with management on disciplinary issues and with the employee on performance issues. The procedure uses a Peer Review Panel, which allows the employee's peers to act as an arbitrator of the dispute. The panel hears both sides of the issues and decides by majority vote.

Under the CECOM ADR procedure, it takes approximately three weeks from the date the grievance is submitted to the date of the hearing. The hearings are limited to one workday. An oral decision is announced on the spot and is final and binding. There is no direct cost.

#### ***Background/Objective***

Peer panels are used for handling grievances involving performance appraisal ratings of Fully Successful (Successful Level 3) or higher, and disciplinary actions taken against an employee causing anything critical of the employee to be placed in the official personnel folder (this process does not apply to adverse actions, removals, or downgrades).

#### ***Duration/Current Activity***

The process has been very successful. To date, 17 issues have been decided by the Peer Panel Review--13 performance and 4 discipline. The benefit of using this ADR mechanism is that it encourages employees to resolve problems they have within the organization, rather than resort to an outside forum such as an arbitrator. It controls costs and provides a timely decision.

#### ***Rules Governing the Activity***

If the employee or the union wishes to grieve the decision on a disciplinary action, he/she (or representative) does so by preparing a written statement of the grievance with the relief requested and a request for a panel review of the decision. The grievant/representative has 10 working days from receipt of the decision letter to present the grievance to the servicing Personnel Management Specialist (PMS) or his/her designee. After determining that the grievance is appropriate for processing, the PMS has 10 days to set up the panel. All decisions made by the panel will be final and binding on both parties.

#### ***Contacts***

Ruth Sharp, Deputy Chief of Staff for Personnel, U.S. Army Communications-Electronics Command, Personnel and Training Directorate, ATTN: AMSEL-PT, Fort

Monmouth, NJ 07703-5000; Telephone: (732) 532-2513. John Poitras, AFGE, Local 1904, U.S. Army Communications-Electronics Command, ATTN: AMSEL-PT, Fort Monmouth, NJ 07703-5000; Telephone: (732) 532-4345.

## **Army Army Materiel Command (AMC)**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Army Materiel Command (AMC) implemented Resolving Employee Disputes Swiftly (REDS) as part of its ADR program. An employee or manager who identifies a workplace problem or dispute raises the matter through the chain of command or supervision. He or she may contact officials in the Equal Employment Opportunity (EEO) Office, Civilian Personnel Advisory Center, Inspector General, union, Chaplain, or the Employee Assistance Office. The official contacted then refers the matter to either an ADR Point of Contact (POC) or a member of the ADR team. The ADR team determines whether ADR should be offered to the parties or whether traditional dispute resolution procedures would be more appropriate in the specific situation identified. If the ADR team decides to offer ADR, it will identify which type of ADR technique is appropriate--mediation (a mediator assisting the parties themselves to reach settlement), peer review (a panel consisting of varying numbers of the parties' peers and neutral, non-involved agency officials rendering a decision on the dispute), or factual discovery (a structured negotiation procedure with the parties making informal, highly-abbreviated presentations to representatives of each party who have authority to settle the matter). Parties using ADR are expected to engage in full and open communications and respect the right of each party to present his or her perspective.

#### ***Background/Objective***

The objective of REDS is to resolve quickly any employment law issue in employee-management relations, labor-management relations, and EEO.

#### ***Rules Governing the Activity***

A REDS pamphlet explaining the process was developed and published for employees. AMC unions are very receptive to the idea of ADR, and have supported REDS. An action plan has been developed for using REDS--describing procedures and processes, and giving answers to frequently asked questions. A model "Commander's Guidance Statement" has been published providing top-level support for institutionalizing REDS and ADR to raise and resolve workplace disputes.

#### ***Duration/Current Activity***

After a one-year pilot program, REDS has been adopted throughout AMC as an ADR Model for Workplace Disputes. A 2-day training program was conducted for 28 AMC REDS teams. A member of the EEO staff, with Legal and Civilian Personnel representatives, chair each REDS team. Additionally, the REDS Program has been accepted by the Headquarters, DA EEO Office, as meeting EEOC ADR requirements.

**Contact**

Stephen A. Klatsky, Assistant Command Counsel, HQ, Army Materiel Command, 5001 Eisenhower Ave., Alexandria, VA 22333-0001; Telephone: (703) 617-2304; FAX: (703) 617-5680; Email: sklatsky@hqamc.army.mil.

**Army  
Army Research Laboratory****ADR Techniques: Multiple Techniques*****How the ADR System Works***

The agency's Resolving Employment Disputes Swiftly (REDS) program uses the ADR techniques of peer review and mediation. REDS extends coverage to all types of workplace disputes including Equal Employment Opportunity (EEO) complaints and grievances (incidents involving violations of criminal law or severe cases of sexual harassment are not covered). An employee can bring any workplace dispute before the REDS Program Administrator in the EEO office. If the dispute is brought up at another office, such as Human Resources or the Inspector General, the matter may be referred to the Program Administrator for intake. An ADR team composed of the REDS Program Administrator and representatives from the legal office, Human Resources, and EEO decide whether to offer ADR. If the employee chooses to use peer review or mediation, management is required to participate. If mediation is used, the agency tolls processing times for grievances or EEO complaints until the process is completed. If mediation fails, the employee may proceed through a traditional process. If peer review is used, the decision of the review panel is final and resolves the matter. Panel decisions and mediated agreements are reviewed by the legal office to ensure that they are enforceable before they become final.

***Background/Objective***

Resolving Employment Disputes Swiftly (REDS) was established for a number of reasons. First, due to downsizing, closing of facilities and Reduction-In-Force, there was a decrease in morale and an increase in workplace disputes. Second, traditional Equal Employment Opportunity (EEO) complaints, grievance and litigation procedures to resolve workplace disputes were too long and drawn out, costly and sometimes ineffective. Third, Federal EEO complaint procedures are changing and now mandate that agencies establish alternative means for handling workplace disputes. Finally, ARL wanted to develop a new, creative and more efficient method of handling workplace disputes. The creation of an alternative dispute resolution (ADR) program using a team approach, involving representatives from the Equal Employment Opportunity (EEO), Human Resource Management and Legal offices as well as command leaders and representatives from labor unions greatly enhanced program development. Although there were few obstacles encountered at the Army Research Laboratory, using the team approach allowed the agency to address any concerns early on, and ensured total command support in implementing the final product. The emphasis placed on the program by the Director and other command leaders overcame some initial management resistance. REDS was implemented in January 1998 at the ARL Adelphi Laboratory Center.

The goals and objectives of the REDS program are to create a voluntary, non-adversarial process whereby involved parties can consensually resolve workplace disputes; reach a solution fairly and quickly, so everyone feels like a winner; promote a work environment of open communication where employees can present issues in a non-threatening forum; forge better relations among disputing parties; allow for the intervention of an impartial third party to assist in identifying the causes of work-related concerns/issues and assist parties in obtaining a mutually acceptable resolution; and reduce costs in terms of money, time, and lost productivity.

### ***Duration/Current Activity***

Under REDS, the processing time for EEO complaints and grievances has been reduced from an average of 381 days to an average of 52 days. Matters going through the REDS process have a resolution rate of 94%.

### ***Rules Governing the Activity***

Army Research Laboratory Memorandum 690-37 prescribes policies and procedures, and establishes responsibilities for the implementation of the REDS program.

### ***Contact***

Jose Torres, REDS Program Administrator, EEO Office, Army Research Laboratory, 2800 Powder Mill Rd., Adelphi, MD 20783-1197; Telephone: (301) 394-4937; FAX: (301) 394-5816; Email: [torres@arl.mil](mailto:torres@arl.mil).

## **Army**

### **Walter Reed Army Medical Center (WRAMC)**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The WRAMC ADR Center uses the ADR techniques of early neutral evaluation and mediation, facilitation, factfinding, problem solving and dispute panel techniques as needed to resolve Equal Employment Opportunity(EEO) complaints, grievances and appeals. Subjects excluded from coverage are waste, fraud, and abuse. Staff members at the Center are trained facilitators. Disputes are brought to the attention of the Center which provides intake services and processes matters with a three-day turnaround time. Included in this processing is a determination of what ADR techniques, if any, should be used in a particular dispute. The agency maintains a list of approximately 10 early neutral evaluators/mediators with diverse backgrounds and uses Department of Defense neutrals, Federal Executive Boards' certified mediators, and neutrals from the U.S. Army Audit Agency and various other Federal agencies. The referral of cases to the personnel office, EEO office, or employee assistance program is normally accomplished within one to five days. ADR procedures are incorporated in WRAMC's Administrative Grievance Process.

#### ***Background/Objective***

The WRAMC ADR Center was developed in October 1994 when EEO cases and grievances were extremely high, workplace tensions were increasing, and the

agency's image was suffering. The objectives of the program were to reduce the cost associated with third party review of grievances, complaints, and appeals; offer employees a process they consider fair and helpful; encourage employee and management participation in a process that focuses on real issues at an early stage; encourage open communication; and identify trends and contributing factors that adversely impact work environment. The major goal during the developmental process was to obtain buy-in from management, employee(s) and union(s). Part of this goal was the signing of a Partnership Agreement between the agency and all three of its unions to ensure open communication, mutual respect and trust among all in resolving issues.

### ***Duration/Current Activity***

The program has an overall success rate of 72% in resolving disciplinary, EEO, performance, promotion, training, communication, and personnel issues. A new evaluation of the program is scheduled to be conducted by the agency's Internal Review and Audit Compliance Office in July 1999.

### ***Rules Governing the Activity***

The ADR program operates under policies and procedures set by the agency and the WRAMC ADR Center.

### ***Contact***

Lawrence Nelson, EEO Office, 6900 Georgia Ave., NW, Room 222, Building 10, Washington, DC 20307-5001; Telephone: (202) 782-7335; FAX: (202) 782-6297; Email: [lawrence.nelson@na.amedd.army.mil](mailto:lawrence.nelson@na.amedd.army.mil)

## **Army White Sands Missile Range**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The White Sands Missile Range Conflict Resolution Program (CRP) primarily uses the ADR technique of mediation but uses facilitation or peer review in some cases. Under the program, managers and employees are encouraged to contact the Conflict Resolution Center (CRC) to discuss possible referrals to ADR. The Director of the CRC, operating out of the Equal Employment Opportunity (EEO) office, does the initial information intake with each party to the dispute having an opportunity to present their perspective on the situation. The Director may discuss the matter with the labor counselor and a personnel specialist. If facilitation or mediation is appropriate, the Director will contact the parties and mediators and make arrangements for the ADR session. If the dispute involves an EEO matter and it is not resolved, the EEO process continues under regulatory guidelines for complaints processing. All types of workplace disputes are covered under the program.

#### ***Background/Objective***

In 1995, White Sands began exploring a variety of methods for addressing complaints/disputes before they reached a formal stage. At that time, formal

complaints had been escalating along with the inherent costs of processing them. A team of individuals from various work units in the agency developed an ADR program and worked to establish the Conflict Resolution Center in 1996. The objectives of the program are to provide a venue to address conflicts before they become so serious they go to formal redress procedures; to provide quick resolution; to provide for coaching/mentoring managers and complainants on basic communications skills; to provide for improved communication and understanding; and to resolve complaints at any stage.

***Duration/Current Activity***

Since the program was set up in December 1996, processing time for disputes has been reduced from months to weeks or days, with the number of EEO complaints dropping from 21 in Fiscal Year 97 to 2 in Fiscal Year 99 and the number of grievances during this time dropping from 11 to 1. Resolution rates when cases go to mediation exceeds 96%. Through Fiscal Year 99, cost avoidance savings under the program has been \$1,019,000.

***Rules Governing the Activity***

A Commander's Guidance issuance states that it is the policy of White Sands to offer voluntary mediation to address any conflict, dispute, complaint, grievance, or other dissatisfaction arising in the workplace. The Commander's Guidance also states that the White Sands Mediation Center provides program guidance and coordinates the voluntary mediation program.

***Contact***

Sylvia Durcholz-Wilhelm, Equal Employment Manager, STEWS-GS-EEO, White Sands Missile Range, NM 88002; Telephone: (505) 678-1291; FAX: (505) 678-1578; Email: [barcaks@cq2.wsmr.army.mil](mailto:barcaks@cq2.wsmr.army.mil).

## Broadcasting Board of Governors

### **ADR Technique: Ombusman**

#### ***How the ADR System Works***

The responsibility for the ombudsman program rests with a two person office that reports to the Director of the International Broadcasting Bureau. The ombuds has the authority to deal with matters that come up anywhere within the Bureau. These matters may involve individuals or they may involve systemic or policy issues not necessarily related to specific individuals. The ombuds works to ensure that systems or policy issues are addressed by the appropriate agency officials and that individuals are fully informed about their rights concerning the appropriate forum for resolving workplace disputes in given circumstances. While not taking the place of the formal processes, e.g., discrimination complaint process, the ombuds works as a "neutral, impartial, and informal channel available to assist employees, managers and supervisors . . . in resolving any work-related problem or issue that cannot be easily resolved through normal channels." The ombuds works closely with other officials in the agency, such as those in the employee assistance program, in resolving workplace issues. Critical elements of the success of the program have been the consistent maintenance of confidentiality concerning any matter brought to the attention of the ombuds and the maintenance of strict neutrality on the part of the ombuds.

#### ***Background/Objective***

The process for setting up the current ombudsman program at the agency began in 1988 in response to employee perceptions that the formal processes were not adequately addressing workplace problems and in response to an increase in the numbers of workplace disputes. In addition, the program was set up to function as an "early warning system" to alert agency management of potential problems.

#### ***Duration/Current Activity***

The program has been in effect since 1988 and has decreased the numbers of potential discrimination complaints. The ombuds spends about 80 percent of his time addressing individual matters and about 5% of his time addressing systemic or policy issues.

#### ***Rules Governing the Activity***

The rules governing the activity have not been codified; however, information about the program is contained in a brochure used by the ombuds.

#### ***Contact***

Bob Henry, Ombudsman, International Broadcasting Bureau, Broadcasting Board of Governors, 330 Independence Avenue, SW, Washington, DC 20237; Telephone: (202) 619-2012; FAX: (202) 619-0085; Email: [rhenry@ibb.gov](mailto:rhenry@ibb.gov).

## Central Intelligence Agency

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

Employees who believe they have a workplace issue that might be amenable to mediation may contact the ADR Program Manager. The ADR Program Manager will ascertain whether the issue falls within the scope of the Agency's ADR mediation criteria. Employees may self-refer, or enter the program through referral.

#### ***Background/Objective***

An ADR Working Group was created in 1995 to evaluate the experiences of both public and private sector ADR programs and to explore the availability of training. In addition, the Administrative Dispute Resolution Act of 1990 required federal agencies to use co-mediation with teams consisting of an Agency mediator and a professional mediator from the private sector. Employee-mediators received training in general mediation skills and techniques with the ultimate goal of creating a trained cadre of employee mediators.

The ADR Program was established as part of the Agency Ombudsman's Office to convey to employees the neutrality of the Program and to remove any perceived stigma associated with contacting the ADR Program Office. The primary goals of the Program have been to make employees aware of an alternative to the traditional/formal processes for setting workplace disputes and to encourage employees to become active participants in resolving their own disputes.

#### ***Duration/Current Activity***

Based upon the successful conclusion of an 18-month pilot ADR Program, the Agency approved a permanent ADR Program in February 1997. Initially, all Agency mediation were conducted in conjunction with mediators provided by the Northern Virginia Mediation Service (NVMS). However, the Agency now has a cadre of trained and certified mediators who may mediate cases without the assistance of NVMS mediators. The Agency ensures that its employee-mediators remain neutral by selecting mediators who do not work in the same directorate or report to the parties involved in the dispute.

#### ***Rules Governing the Activity***

The Agency opened its ADR Program to all employees, including those with EEO and grievance issues. However, several areas are not subject to ADR. These include, but are not limited to, security adjudications, exercises of the Director's statutory termination authority, Department of Labor compensation claim decisions, and decisions of various disciplinary and administrative payments boards.

#### ***Contact***

The Central Intelligence Agency's Alternative Dispute Resolution Program Manager, (703) 482-0782, fax (703) 482-1715.

## Commodity Futures Trading Commission

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Commission's Alternative Dispute Resolution (ADR) Program was established in May 1999. Employees experiencing a workplace dispute may contact the Commission's Mediation Coordinator who is responsible for providing guidance on appropriate ADR methods. While the Commission employs various ADR techniques to resolve disputes including cooperative problem solving, conciliation, facilitation and fact-finding, mediation is the key focus of the program. Mediation is voluntary, confidential, available to all employees for most types of workplace disputes and can be terminated at any time. Mediators cannot impose any outcome on the parties and resolutions are binding. Mediation is available at any stage of any administrative dispute process. Mediators are selected from the Department of Health and Human Service's Shared Neutrals Program.

#### ***Background/Objective***

Historically, formal dispute resolution at the Commission was time consuming, expensive and in many cases counter productive to our mission. In 1997 the Commission established a pilot program. At the conclusion of the pilot program the Commission conducted a comprehensive review and established a permanent ADR Program. The primary objective of the permanent ADR program is to give managers and employees a structured and positive environment to resolve workplace disputes expeditiously. The ADR Program is an integral part of the administrative and negotiated grievance procedures, and the Commission's EEO complaint process.

#### ***Duration/Current Activity***

In the fifteen months since the program was established, the Commission has been involved in nineteen dispute-related matters. All matters have been successfully resolved, with one exception. In the matter that was not resolved, a settlement agreement was reached regarding some of the issues, and mediation enabled the parties to identify, and clarify other issues in the dispute. Mediation successes have translated to additional requests for mediation. Employees and managers depend on the ADR program to help them create remedies for resolving disputes.

#### ***Rules Governing the Activity***

The rules governing the ADR program are found in the Commission's Alternative Dispute Resolution and Grievance Procedure policy directive and in negotiated agreements with labor organizations.

#### ***Contact***

Daryl Stephens, Employee Relations Specialist, CFTC, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581; Telephone: (202) 418-5017; FAX: (202) 418-5530; Email: [dstephens@cftc.gov](mailto:dstephens@cftc.gov).

## Corporation for National and Community Service

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Corporation for National and Community Service ("Corporation") ADR program is available to all its employees and managers. The ADR program is intended to assist employees and managers to resolve most workplace and equal employment opportunity disputes informally, without having to resort to formal litigious processes. The Corporation uses an outside contractor, ADR Vantage, Inc., for the day-to-day coordination of the program. Although mediation is the primary ADR technique used, the program coordinator may suggest other approaches such as conciliation, facilitation, fact-finding, and the use of an ombudsperson, depending upon the nature of the dispute. Once the ADR process is complete, participants in the process are asked to fill out a "Participant Survey," evaluating the process and its outcomes. The Corporation evaluates the ADR program annually.

#### ***Background/Objective***

Recognizing the potential value of alternative dispute resolution in the Corporation, the Director of Human Resources, the Director of Equal Opportunity, and the General Counsel convened a workgroup to address all aspects of implementing an alternative dispute resolution process for the Corporation. Representatives of several Corporation units and the union served on this workgroup, and the workgroup solicited the input of other employees. The Corporation implemented a pilot program in January 2000, and the current ADR program in April 2001.

#### ***Duration/Current Activity***

The Corporation's ADR program began with a pilot program on January 1, 2000. The Corporation firmly established ADR as part of the Corporation's culture with the implementation of a revised ADR policy in April 2001. In 2000, the first year of the pilot program, 36 employees contacted the Program Coordinator to learn more about the ADR process. A total of 23 employees chose to use the ADR process as a tool for resolving workplace disputes. Of the 23 cases in which employees chose to pursue ADR, 10 were resolved at intake, 8 were resolved successfully using an ADR approach, primarily mediation, 4 were not resolved, and 1 was still pending at the end of the year -- representing an 82% resolution rate when considering both those cases resolved at intake, and those resolved successfully through the use of an ADR process.

#### ***Rules Governing the Activity***

The Corporation has implemented a comprehensive ADR program policy. Participation in the program is voluntary for employees and managers, but the Corporation expects its managers to participate when so requested by an employee seeking to resolve a dispute. The employee retains the right to file a formal complaint or grievance.

**Contact**

Nicola Goren, Dispute Resolution Specialist, Corporation for National and Community Service, 1201 New York Avenue, N.W. 8th floor, Washington, DC 20525; Telephone: (202) 606-5000 ext. 259; FAX: (202) 565-2796; email: [ngoren@cns.gov](mailto:ngoren@cns.gov)

**Defense Contract Audit Agency****ADR Technique: Mediation*****How the ADR System Works***

It is the Defense Contract Audit Agency's (DCAA) policy to consider the use of ADR in all EEO cases in the informal stage when deemed appropriate by management. The stage of any individual case at which ADR is used and the ADR procedure to be followed is also subject to the discretion of management.

While any form of ADR may be considered and used, if appropriate, special consideration is given to the use of mediation. DCAA's policy is that government mediators be used whenever possible but permits use of someone outside the government.

***Background/Objective***

DCAA's program is limited to EEO cases. DCAA's experience has been that the use of ADR for resolving EEO cases results in faster, less expensive, and less contentious resolution of issues in controversy. Accordingly managers are encouraged to use ADR as an alternative to litigation or formal administrative procedures to the maximum extent possible.

***Duration/Current Activity***

Initial ADR activity began with a pilot program in two of DCAA's regions. Based on the results obtained during the pilot program, DCAA developed procedures to implement ADR agency-wide and assigned a program manager to manage that program as a collateral duty. The program became fully operational in April 1999.

***Rules Governing the Activity***

The rules governing this program are in DCAA Regulation 5145.1 "Alternative Dispute Resolution for Equal Employment Opportunity Cases."

**Contact**

John M. Farenish, Defense Contract Audit Agency, Office of General Counsel, 8725 John J. Kingman Rd., Suite 2135, Fort Belvoir, VA 22060-6219; Telephone: (703) 767-3219; DSN 427-3219; E-mail: [john.farenish@dcaa.mil](mailto:john.farenish@dcaa.mil).

## Defense Logistics Agency (DLA)

### **ADR Techniques: Multiple Techniques**

#### ***How the ADR System Works***

It is DLA's policy to consider the use of ADR in every situation where unassisted negotiations do not resolve the issues in controversy. A management decision not to use ADR, where unassisted negotiations have not been effective, is made only after its possible use has been fully evaluated and discussed.

While all forms of ADR are considered, DLA's technique of choice is mediation. A cadre of DLA employees serve as neutrals in a collateral duty capacity. Additional sources of neutrals include other federal agencies and the private sector.

#### ***Background/Objective***

DLA has a broad based program that encourages the use of ADR techniques as an alternative to formal procedures in all matters of dispute including personnel, EEO, labor, procurement, sales, and environmental concerns. Parties are encouraged to resolve disputes at the earliest possible stage, although ADR techniques are available during the later stages as well.

#### ***Duration/Current Activity***

Initial ADR activity began in 1992. Parts of the program became operational in 1993 and in 1995. The program became fully operational in 1997.

#### ***Rules Governing the Activity***

Principal rules governing this program are in DLA Directive 5145.1.

#### ***Contact***

Beth Broidy Lagana, Defense Logistics Agency Office of Counsel Columbus Region, P. O. Box 3990, Columbus, Ohio 43216-5000; Telephone: (614)692-1859; DSN: 850-1859 E-mail: [blagana@ogc.dla.mil](mailto:blagana@ogc.dla.mil).

## Defense Logistics Agency Defense Reutilization and Marketing Service

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Defense Reutilization and Marketing Service (DRMS) Alternative Dispute Resolution Program was designed to offer mediation at any stage of the EEO complaint process and any stage of a contract dispute. There are plans to expand the program to include union grievances and conflicts between managers. Employees access mediation through their union, EEO, Legal Office and the Employee Assistance Program (EAP). To promote ADR awareness, the Office of Counsel established an ADR Working Group. The Office of Counsel has teamed with the

Battle Creek Medical Center Veteran's Administration to "Share Neutrals." The DRMS Program's emphasis is "Early Detection is Early Correction."

### ***Background/Objective***

The goal of the program is to resolve a variety of workplace and contract disputes using mediation. It is the program's philosophy that the organization and the individual benefit through alternatives to litigation. The ADR Program is informal and voluntary and if resolution can't be reached, the individual or firm is encouraged to use formal channels. A key emphasis is making the workforce aware that DRMS offers an effective, inexpensive, time saving and informal process to resolve conflict.

### ***Duration/Current Activity***

An ADR Counsel was appointed in 1999 in the Office of Counsel. The ADR Working Group was established in March 2000. The Office of Counsel offers ADR advisory services, seminars and symposiums and hosts mediation training. ADR is briefed during the annual Ethics briefing to employees at the Battle Creek Federal Center as well as at field offices. The Office of Counsel has a segment of its webpage devoted to ADR and offers an expanse of ADR links.

### ***Rules Governing the Activity***

The DRMS Office of Counsel designed its program after its headquarters, Defense Logistics Agency's (DLA) ADR Program. The DLA ADR Counsel, Attorney Beth Lagana, helped to initiate the DRMS program in early 2000 by conducting training for over 350 employees. Defense Logistics Agency Directive 5145.1 and Defense Reutilization and Marketing Service Directive 5145.1 govern the DRMS ADR Program.

### ***Contact***

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## **Defense Threat Reduction Agency**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Defense Threat Reduction Agency (DTRA) has established an ADR program to handle discrimination complaints as well as other complaints associated with misconduct and performance. DTRA encourages the use of ADR when the issues are well understood, the dispute revolves around facts, each party involved has a valid argument, each side can easily assess its strengths and weakness without conducting extensive research, the parties need to vent their frustrations, and all involved desire a speedy resolution. ADR techniques such as mediation, factfinding, and negotiated/alternative discipline are used to assist parties informally resolve many of their disputes. Shared neutrals and ombudsmen also assist in the early resolution of conflict and the agency is considering establishment of an ombudsmen program. If

any issue remains unresolved at the conclusion of the ADR process, an employee may still pursue the issue through the more traditional grievance process.

### ***Background/Objective***

The ADR program is designed to be used as a tool that can assist both managers and employees to resolve problems without costly and timely litigation. The early and less costly resolution of disputes result in an enhanced working relationship between the parties involved. The most common techniques used to achieve DTRA's ADR objective are mediation and factfinding.

### ***Duration/Current Activity***

The well-established program has been in operation with DTRA's predecessor agencies for ten years and has been adopted by the recently established DTRA. DTRA is also incorporating the use of negotiated discipline. The key features of the program will include fostering a healthier relationship between management and employees while still addressing acts of misconduct, reducing paperwork and time spent by all parties on disciplinary actions, and encouraging employees' acceptance of the program and willingness to participate in the selection of a negotiated penalty.

### ***Rules Governing the Activity***

The rules governing this program are in DTRA's *Discipline and Adverse Action Instructions*.

### ***Contact***

Dominick Brognano, Assistant General Counsel, Defense Threat Reduction Agency, 45045 Aviation Drive, Dulles, VA 20166-7517, Telephone: (703) 810-4561; Email: [Dominick.Brognano@DTRA.MIL](mailto:Dominick.Brognano@DTRA.MIL).

## **Education**

### **ADR Techniques: Multiple Techniques**

#### ***How the ADR System Works***

An employee must contact the Informal Dispute Resolution Center (IDR) within 45 calendar days of the alleged discriminatory act, personnel action, or other basis of complaint, or the date he/she became aware of the matter that is the basis of the complaint. A counselor meets individually with the involved parties and assists them in attempting to resolve the dispute. The IDR Center will try to resolve the matter informally within 30 calendar days from the date of the initial contact. If necessary, the employee may request an additional 60 days for further counseling or to pursue mediation. If the dispute is not resolved, the IDR Center provides a written notice of right to file a formal grievance.

#### ***Background/Objective***

The IDR Center was established May 1996. It provides employees, applicants, and managers with an informal process to resolve disputes, disagreements, or complaints on a wide range of work-related matters. The IDR Center was set in motion on the following inducements: it provides quick resolution; promotes creative problem

solving; encourages open communication; allows parties to resolve disputes themselves; uses an impartial third party to assist the involved parties in resolving disputes; may improve working relationships; and may avoid lengthy litigation.

***Duration/Current Activity***

The services provided by the IDR Center include counseling and mediation offered in an informal setting to assist employees in resolving complaints in an expeditious and impartial manner. The IDR Center is staffed by trained counselors who are available to discuss a wide variety of employment disputes. Trained mediators are also available to assist participants in reaching a voluntary agreement that resolves EEO and other work related disputes.

***Rules Governing the Activity***

In many situations, bargaining unit employees may elect to use the IDR Center or the Collective Bargaining Agreement's Problem Resolution Procedure.

***Contact***

David Wortham, Department of Education, 490 E. L'Enfant Plaza, SW, Washington, DC 20024; Telephone: (202) 619-9724; FAX: (202) 708-4549; Email: [david\\_wortham@ed.gov](mailto:david_wortham@ed.gov). Informal Dispute Resolution Center, 490 L'Enfant Plaza, SW, Suite 2100A, Washington, DC 20024, Telephone: (202) 619-9700; TTD: (202) 619-9731; FAX: (202) 619-9726; Email: [idr\\_center@ed.gov](mailto:idr_center@ed.gov).

## Energy Office of Dispute Resolution

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Office of Dispute Resolution is located in the headquarters of the Department of Energy and is responsible for encouraging Alternative Dispute Resolution (ADR) throughout the agency, at all its field offices and with all its contractors. The Director of the office provides training, system design support and acts as a consultant for all types of dispute resolution, ranging from preventive techniques, such as partnering, differing professional opinion processes and ombuds, to mediation in many types of disputes, such as intellectual property, contract, environment, grants and whistleblower complaints.

The majority of mediations concern workplace disputes. In addition to working with the field and contractors, the Office of Dispute Resolution manages a workplace mediation program for headquarters employees. Any kind of dispute can be referred to mediation - from the Office of Civil Rights, Office of Employee and Labor Relations, the Employee Assistance Program, the Office of Ombudsperson, the Union, or directly from managers or supervisors. The program encourages referrals of conflicts at as early a stage as possible, believing that this offers the best opportunity for a lasting resolution. Thus, managers are encouraged to use the program before an EEO complaint or grievance has been filed.

The program is run by a Headquarters Mediation Program Manager who spends a great deal of time on convening. She determines the nature of the dispute and who must be involved to achieve resolution. She then obtains the consent of relevant parties to the mediation process and works closely with them, offering information, including a video, and often providing coaching, to help them understand and prepare for the mediation. She assigns a mediator from a group of mediators under contract with the Department of Energy, or on occasion, uses mediators from other federal agencies. A new phase has been added to the mediation program--the Mediation Program Manager observes each mediation and helps the mediator by assisting with the logistics, such as getting information from the personnel office, collecting signatures for settlement agreements, etc. In essence, she ties up the knots so that the mediator does not have to spend time making numerous phone calls. Both mediators and parties evaluate each mediation.

#### ***Background/Objective***

The headquarters program began as a pilot in 1995, spurred by the requirements for ADR in EEO regulations. The program operates on the premise that most workplace conflicts are based on miscommunication, and that it is best to resolve them as early as possible before they enter a formal and adversarial process.

All offices and the National Treasury Employees Union were involved in the development of the initial pilot, and the program continues to emphasize broad involvement and access. The number of informal referrals continue to increase, in

addition to those filed through the EEO or grievance process. There has been an increase in higher graded employees requesting mediation and senior management continues to be very supportive in resolving these workplace disputes. Most DOE field locations have established some kind of local mediation program, either using a shared neutrals program, private mediators, or local community organizations. Several of them are listed below.

### ***Rules Governing the Activity***

Both parties must voluntarily agree to participate in mediation, and may bring with them a family member, colleague, union representative, or attorney. If the complainant is represented by counsel, the mediation program manager requests attendance of agency counsel; otherwise, no attorneys are present. Technical assistance, such as a personnel specialist or the disability program coordinator are invited to participate when their expertise is needed. Mediations are strictly confidential, and information is shared only with those within the agency who need to know in order to implement a settlement.

### ***Contact***

Pamela Pontillo, Manager of the DOE Headquarters Mediation Program, Office of Dispute Resolution, GC-12, 1000 Independence Avenue, S.W. Room 6B-222, Washington, DC 20585; Telephone: (202) 586-4002 for Pamela Pontillo; FAX: (202) 586-7479; Email: [pamela.pontillo@hq.doe.gov](mailto:pamela.pontillo@hq.doe.gov).

## **Energy Employee Concerns Program**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Department of Energy (DOE) Employee Concerns Program (ECP) is administered by the Headquarters Office of Employee Concerns which is located in the Office of Economic Impact and Diversity, and is implemented by employee concerns program offices throughout the DOE complex. The program does not replace existing formal procedures such as administrative grievance procedures, normal Environmental, Safety, and Health (ES&H) reporting avenues, or appeal rights available to employees. Instead, using ADR techniques such as facilitation, factfinding-finding, and mediation, the ECP supplements those programs by seeking to resolve problems before it becomes necessary to invoke formal procedures which can be costly and litigious, and frequently result in long delays before concerns are resolved.

#### ***Background/Objective***

The Employee Concerns Program was established as part of a Secretarial initiative to ensure openness and reinforce DOE's zero-tolerance policy regarding whistleblower reprisal. The primary goal of the program is to create an environment in which DOE Federal and contractor employees feel free to raise concerns about policies and practices that adversely affect DOE's accomplishment of its mission in a safe and

efficient manner; management at all levels appreciates the value of employee concerns; and concerns are appropriately, fairly, and objectively considered.

### ***Duration/Current Activity***

The current Employee Concerns Program was established in September 1996. In addition to establishing overall program policy and guidelines for the ECP, the Office of Employee Concerns assists ECP offices in the resolution of concerns, provides training to ECP managers and staff, coordinates the collection of data, and reports to the Secretary and other management officials on employee concerns program activity.

### ***Rules Governing the Activity***

The initial Employee Concerns Program, established in 1993, was governed by DOE Order 5480.29 and focused on concerns related to environmental, safety, and health issues. The new DOE policy statement, order, and program guide governing the current ECP was published under the 442 series in the DOE Directive System (DOE 0442.1A; DOE G442.1-1, both issued February 1, 1999).

### ***Contact***

William A. Lewis, Jr., Director, Office of Employee Concerns, U.S. Department of Energy, Room 1F-024, Routing Symbol ED-5, 1000 Independence Avenue, SW, Washington, D.C. 20585; Telephone: (202) 586-4034; FAX: (202) 586-4924; Email: bill.lewis@hq.doe.gov.

## **Energy Albuquerque Operations Office**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

Employees are encouraged to use mediation as a tool to address any issue that may interfere with employee morale, productivity, and work efficiency. Such issues are unavoidable in any workplace, and particularly in a workforce as large, diverse, and geographically dispersed as the activities reporting to the Albuquerque office. Employees are always encouraged to discuss issues with their immediate supervisor, with the understanding that they may pursue the administrative grievance process or the EEO Discrimination Complaints Process within the prescribed time frames. Mediators are supplied by a contractor. Each mediation participant is given an evaluation form. Additionally, employees are provided an agency point-of-contact if they prefer to provide an evaluation orally. Because of the confidentiality built into the program, evaluations cannot be matched to a particular case, but they allow continuous improvement of the overall program.

#### ***Background/Objective***

The program goal is to address, as early as possible, any work-related dispute in an objective and confidential manner that inspires trust and achieves win-win solutions. Continued use of mediation helps the organization reach its strategic goals and operate within its core values.

***Duration/Current Activity***

This program began as DOE's first mediation pilot in May 1994 and became permanent because of its success. Its total cost through September 2001 has been \$30,141. During that time, there have been 56 mediations with 36 successful resolutions. Since the EEOC's low-range estimate for the cost of a formal EEO complaint is \$70,000, the program has clearly been highly cost-effective. Evaluations by participants show they are generally pleased with the program and believe that it facilitates fair and impartial resolutions to issues in the workplace. The program is actively promoted, with information made available to all employees and briefings provided to senior managers and EEO counselors.

***Rules Governing the Activity***

Aggrieved individuals have the right to representation throughout the complaint process, including during any mediation. While the purpose of mediation is to allow the parties to fashion their own resolution to a dispute, it is important that the mediation program provides all parties the opportunity to bring a representative to the mediation if they desire to do so.

***Contact***

Yolanda Ruiz, Office of Equal Opportunity, DOE, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185-5400; Telephone: (505) 845-4243; FAX: (505) 845-4963; Email: [yruiz@doeal.gov](mailto:yruiz@doeal.gov).

**Energy****Bonneville Power Administration (BPA)****ADR Technique: Multiple Techniques*****How the ADR System Works***

Mediation and facilitation services are available to resolve Equal Employment Opportunity (EEO) disputes, and certain other workplace disputes, including those brought under Bonneville Power Administration's (BPA) Harassment-Free Workplace Policy. Participation by both employees and managers is voluntary; mediation services are provided either by a list of internal mediators (EEO cases only), or through the Oregon Federal Executive Board's "Shared Neutrals" program. Shared Neutrals' mediators come from participating Federal, state, and local governments. The Transmission Business line now has ombudsman services available.

***Background/Objective***

BPA's mediation program started after BPA developed its Harassment-Free Workplace Policy in 1992. The program began using external contract mediators. Internal mediators were selected and trained in 1996. BPA joined Shared Neutrals in 1997.

***Duration/Current Activity***

In 1996, BPA selected employees to train as mediators. They perform mediation as collateral duty for BPA cases and the Shared Neutrals Program. The number of BPA

cases using mediation as an alternative is slowly growing. The Transmission Ombudsman program started in May 2000 after a year-long pilot program. For EEO cases only, the agency can use Early Neutral Evaluation and other forms of ADR.

### ***Rules Governing the Activity***

The rules vary depending on the nature of the dispute, e.g., the Harassment Free Workplace Policy or the EEO Complaint process as defined under 29 CFR 1614. Since participation in the ADR program is voluntary, all parties to a dispute must at least believe that mediation or other forms of ADR have some value to resolve and/or bring better understanding to their dispute. ADR events through the EEO process are normally organized by an EEO Counselor; mediations through the Shared Neutrals program must comply with the Federal Executive Board's rules.

### ***Contacts***

Mark S. Danley, BPA Shared Neutrals' Liaison and Mediator, Telephone: (503) 230-7370; Email: [msdanley@bpa.gov](mailto:msdanley@bpa.gov).

## **Energy**

### **Environment, Safety and Health, Office of Oversight**

#### **ADR Technique: Differing Professional Opinions Program**

##### ***How the ADR System Works***

The Differing Professional Opinions Program (DPO) is designed to respond to any matter relating to the topics and operational areas within the Office of Oversight, which oversees safety programs in Doe's nuclear facilities. It recognizes that frequently there may be more than one way to solve a problem, and encourages informal discussion of differing professional opinions at the peer and immediate supervisory level. If resolution is not achieved, it provides an appeal mechanism to increasingly higher levels of management. The program is designed to promote free discussion of ideas and provide an avenue to higher level management that employees may use without fear of reprisal for "going out of channels."

##### ***Background/Objective***

The program was established in 1996 to respond to employees' need for an avenue to express opinions in an increasingly complex and technically challenging discipline that remains both highly controversial and highly suspect in the public eye. The program provides a formal process for the expression and resolution of differing professional opinions within the organization regarding positions taken by management that have not been resolvable through informal discussions with peers, immediate supervisors, and managers. Through this program, supervisory and managerial personnel can maintain a working environment that encourages employees to make known their best professional judgments even though they may differ from the prevailing staff view, disagree with a management decision or policy position, or take issue with proposed or established office practices. The program is meant to supplement, not supplant, appropriate appeal mechanisms such as the Departmental Employee Concerns Program, the activities of the Office of the Inspector General, or the Merit Systems Protection Board.

### ***Duration/Current Activity***

The program has been in effect since 1996; the procedures were updated in 1998.

### ***Rules Governing the Activity***

The Office of Oversight has issued formal procedures for the conduct of the program. The procedures define the circumstances under which a DPO might occur, outline exclusions from the DPO process (e.g., matters outside the Office of Oversight or matters appealable through other channels), describe the processes and requirements for employees filing a Level I DPO, requesting an office director's response, and a Level II DPO, calling for senior review and response. For example, the Level I process must include a written statement including the following: a summary of the prevailing view or decision; a description of the individual employee's view and a description of what the individual expects the resolution to be; and an assessment of the consequences should the individual's position not be adopted. All responses must be fully documented and DPO rejections must be fully explained and the appeal to Level II fully described.

### ***Contact***

Frank Russo, Office of Oversight, EH-21, Room 4006, 270/cc, 19901 Germantown Road, Germantown, MD 20874; Telephone: (301) 903-1845; FAX: (301) 903-2268; Email: [frank.russo@hq.doe.gov](mailto:frank.russo@hq.doe.gov).

## **Energy Idaho Operations Office**

### **ADR Technique: Ombuds**

#### ***How the ADR System Works***

The Idaho Operations Office (DOE-ID) Ombudsman program uses mediation as one form of dispute resolution. It is a voluntary program offered to any employee with a concern or dispute. Employees are encouraged to use mediation as a tool to address any issue that may interfere with employee morale, productivity, and work efficiency.

The program does not replace existing formal procedures such as administrative grievance procedures, normal Environmental, Safety, and Health (ES&H) reporting avenues, or appeal rights available to employees. Instead, using ADR techniques such as facilitation, fact-finding, and mediation, the Ombudsman supplements those programs by seeking to resolve problems before it becomes necessary to invoke formal procedures which can be costly and litigious, and frequently result in long delays before concerns are resolved. Formal grievance processes are still available.

Any workplace concern or dispute may be resolved using mediation, including group mediation. Employees are encouraged from the top down to participate in this process. An independent organization supplies mediators for DOE-ID.

#### ***Background/Objective***

The objective of the Ombudsman program is to provide assistance to the entire organization to further promote organizational health for both individuals and the

entire organizational structure. The primary goal of the program is to create an environment in which DOE-ID employees feel free to raise concerns about policies and practices that adversely affect DOE's accomplishment of its mission in a safe and efficient manner; management at all levels appreciates the value of the concerns and issues employees may have; and concerns are appropriately, fairly, and objectively considered.

### ***Duration/Current Activity***

The DOE-ID Ombudsman program was started in April 2000 to provide an alternative to the formal complaint processes. The number of cases is slowly growing as the program becomes more established and the workforce gains trust in the process. Feedback is provided to upper management regarding the types of concerns being identified (being careful to maintain the confidentiality of the individuals) to address systemic and programmatic areas for improvement.

### ***Rules Governing the Activity***

Prior to beginning each mediation session, ground rules are discussed and each participant is required to sign an "Agreement to Participate" which explains the mediation process. Since the process is voluntary, any settlement is the product of the participants and they are bound by the terms to which they have agreed. Should mediation not succeed, the case will be returned to the forum from which it came and the parties are then bound by the rules of that process. Mediations are strictly confidential, and information is shared only with those within the agency who need to know in order to implement a settlement.

### ***Contact***

Jeffrey N. Perry, Ombudsman, U. S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail stop 1225, Idaho Falls, Idaho 83401; Telephone: (208) 526-4570; FAX: (208) 526-5964; Email: [perryjn@id.doe.gov](mailto:perryjn@id.doe.gov).

## **Energy Nevada Operations Office**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Nevada Operations Office ADR program uses mediation as the preferred form of dispute resolution. It is a voluntary program offered to any employee with a concern or dispute. The program is not limited to formal grievances or EEO complaints. Any workplace concern or dispute may be resolved using mediation, including group mediation. Employees are encouraged from the top down to participate in this process. Mediators are assigned by the Southern Nevada Federal Mediation Consortium (SNFMC) which maintains a pool of Federal employees trained as mediators. A mediator is only assigned cases from agencies other than the agency with which he/she is employed. This is a policy of the SNFMC intended to maintain the maximum level of confidentiality and neutrality.

### ***Background/Objective***

In 1996, the Nevada Operations Office began seeking ADR options to offer employees. After determining that mediation was the best alternative, the concept of partnering with other Federal agencies was developed. Solicitation began and on February 5, 1997 four Federal agencies signed an agreement establishing the SNFMC. Training of Federal employees began and the consortium now maintains up to 24 trained mediators.

### ***Duration/Current Activity***

The SNFMC continues to provide mediation services to all Federal agencies in the southern Nevada area. It is expected the number of disputes that will go to mediation will increase as the process gains credibility with its successes. The changes to the EEOC regulations requiring agencies to offer ADR to EEO complainants has resulted in interest being expressed by smaller agency offices in the Las Vegas area for mediation services. The SNFMC offers these services to any Federal agency, at no cost, even though they may not be a participant in the SNFMC. As more cases go to mediation, the savings to the agencies will subsequently increase.

### ***Rules Governing the Activity***

Prior to beginning each mediation session, ground rules are discussed and each participant is required to sign an "Agreement to Participate" which explains the mediation process. Since the process is voluntary, any settlement is the product of the participants and they are bound by the terms to which they have agreed. Should mediation not succeed, the case will be returned to the forum from which it came and the parties are then bound by the rules of that process.

### ***Contact***

Kathy M. Lynn, Human Resources Division, U.S. Department of Energy, National Nuclear Security Administration, Nevada Operations Office, P.O. Box 98518, Las Vegas NV 89193-8518; Telephone (702) 295-0566; Email: [lynn@nv.doe.gov](mailto:lynn@nv.doe.gov).

## **Energy Richland Operations Office**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

While using a panoply of techniques to resolve disputes, the Richland Operations Office/Office of River Protection uses the Alternative Dispute Resolution/Differing Professional Opinion (ADR/DPO) programs. The ADR/DPO programs are complementary in that ADR tends to handle problems that are more personnel related while DPO tends to handle problems that are more technical in nature. Whether the actual technique used is mediation, partnering, ombudsmanship, neutral evaluation, nonbonding arbitration, ministerial, binding arbitration, or something else will depend on the specifics of each particular case.

### ***Background/Objective***

The objective of the Alternative Dispute Resolution (ADR) program is to provide

assistance to the entire organization to further promote organizational health for both individuals and the entire organizational structure.

***Duration/Current Activity***

The ADR program has been minimally used at Richland Operations Office/Office of River Protection within the last two years. Currently, there are three collateral duty mediators on staff who are certified through a local Dispute Resolution Center and many outside experts available on call. RL/ORP currently has a contract with the Benton-Franklin Dispute Resolution Center, a non-profit organization. The DPO program has been in existence at Richland for two years. On staff are an administrator and several resource people who are experienced in the DPO process.

***Rules Governing the Activity***

The ADR program receives referrals from employees, supervisors, the Office of Special Concerns/Employee Concerns Office, Human Resources Division, the Diversity Program Manager, Employee Assistance Programs, and Procurement, and the Office of Chief Council. The ADR Administrator then recommends an appropriate mechanism whether it be arbitration, mediation, or another dispute resolution technique, and assists in obtaining the services needed. The DPO program receives a formal DPO submittal, normally from an employee, and then refers it to assigned senior management official. The RL/ORP manager appoints a review chair who in turn appoints two more members to a review panel. The panel studies the submittal and then makes its recommendations to the RL/ORP Manager. The ultimate decision on the issue or dispute remains with the management official.

***Contact***

Julie A. Goeckner, Program Manager, Office of Special Concerns, U.S. Department of Energy, Richland Operations Office, A1-61, P.O. Box 550, Richland, Washington, 99352; Telephone: (509) 376-1198; FAX: (509) 372-0998; Email: [Julie\\_A\\_Goeckenr@rl.gov](mailto:Julie_A_Goeckenr@rl.gov)

# Federal Deposit Insurance Corporation

## **ADR Technique: Multiple Techniques**

### ***How the ADR System Works***

FDIC's ADR Program has eight major parts: conflict management systems design, ADR advice and consultation, mediation and facilitation services, ADR policy and legislative analysis, outreach and work in the federal sector, ADR training and education, evaluation and tracking, and support for the Corporate ADR Steering Committee. The FDIC's current ADR policy strongly encourages the use of ADR and is committed to continuing to expand its use both internally and with those outside the Corporation. The current policy is outlined at 62 Fed. Reg. 66370.

### ***Background/Objective***

In 1989 during the height of the banking and thrift crisis, the FDIC (which then also had responsibility for the Resolution Trust Corporation (RTC)) adopted ADR policies in response to the increasing number of cases in which the FDIC and RTC found themselves on opposite sides of a lawsuit with few, if any, other disputants. The FDIC's Legal Unit used trained FDIC and RTC personnel to resolve these disputes. This led to the establishment of the ADR Unit whose purpose is to develop, implement, and coordinate ADR programs for use in preventing disputes from occurring and resolving those which do occur in the most timely and least costly manner. Since 1991, the FDIC has saved over \$41 million in estimated legal fees and expenses by using ADR rather than litigation.

### ***Duration/Current Activity***

In addition to the negotiation, mediation and arbitration used in various internal disputes, the FDIC has also used mediation, minitrials, early neutral evaluation, non-binding and in rare cases, binding arbitration, to resolve disputes with outside parties. These cases have included creditor claims, real estate disputes, commercial matters, and professional liability cases. The FDIC also has a mediation program to resolve EEO disputes, both in the formal and informal stages. The FDIC also uses facilitation and interest-based techniques in its labor-management partnerships.

### ***Rules Governing the Activity***

In disputes involving internal FDIC parties, members of the ADR Unit are often asked to provide conflict management system design services or mediation/facilitation services. In disputes arising among entities controlled by the FDIC, ADR coordinators encourage negotiation and mediation. For cases involving outside parties, the Legal Division has guidelines to determine whether a case is appropriate for ADR and what type of ADR should be used. Approval to use ADR with an outside party may be given at the field level if proper monetary delegations of authority are present. Special procedures govern the use of binding arbitration and the selection and payment of neutrals, and approval by Headquarters is required. The FDIC has also participated for years in court-ordered ADR.

### ***Contact***

Cathy Costantino, Counsel, Legal Division, Federal Deposit Insurance Corporation,

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Email: [ccostantino@fdic.gov](mailto:ccostantino@fdic.gov).

## Federal Election Commission

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Early Intervention Program is a joint initiative of the agency EEO Director, Personnel Director, and EEO counselors to use ADR techniques to resolve employee concerns that might otherwise result in the filing of a formal EEO complaint. Prior to filing an EEO complaint, employees may voluntarily agree to meet, separately or jointly, with the EEO Director, Personnel Director, EEO Counselor, and/or the party allegedly responsible for the discrimination or other wrongdoing. The EEO Director establishes ground rules for the resolution meeting, facilitates the discussion, recommends options, reduces the terms of the informal resolution to writing, coordinates the document with the Personnel and Staff Directors to obtain agency approvals, issues the approved resolution agreement to the appropriate parties, and schedules follow-up meetings to measure progress and ensure full compliance with the negotiated terms. If resolution attempts are unsuccessful, the employee may proceed with EEO counseling and the filing of a formal complaint.

#### ***Background/Objective***

The initiative began in March 1994, as an attempt to bring about more timely and complete resolution of employee concerns.

#### ***Duration/Current Activity***

During the period March 1994 through April 1997, the agency resolved 100% of the 26 issues employees brought voluntarily before the EEO Director. Based on the EEOC's 1996 estimates, the total cost to process an EEO complaint from precomplaint counseling to litigation is between \$162,390 and \$310,390. The agency has therefore recognized substantial savings. Before initiation of the Early Intervention Program, the agency carried from two to five formal EEO complaints at any given time.

#### ***Rules Governing the Activity***

The program is entirely voluntary, and there are no formal rules.

#### ***Contact***

Patricia A. Brown, EEO Director, Federal Election Commission, 999 E Street, NW, Room 436, Washington, DC 20463; Telephone: (202) 694-1228; FAX: (202) 219-3880; Email: [pbrown@fec.gov](mailto:pbrown@fec.gov).

## General Accounting Office

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The mediation program at the General Accounting Office (GAO) is strictly voluntary. GAO employees are encouraged to consider mediation for all work related issues including issues raised in discrimination complaints or grievance processes. It is also used to resolve difficulties in working relationships between a staff member and a supervisor, or between two or more individuals working together. Mediation is introduced to an employee during the precomplaint stage and is most frequently used before a formal complaint is filed. However, if all parties agree, mediation may be used at any stage in the process. GAO has trained over 35 employees as collateral duty in-house mediators.

#### ***Background/Objective***

GAO's mediation program was established in fiscal year 1989 as a pilot. The objective was to clear up a backlog of Equal Employment Opportunity (EEO) complaints. The agency also was looking for a way to process employee disputes without formal complaints. The pilot program became a formal mediation program in November 1990.

#### ***Duration/Current Activity***

There is no time limit on the duration of the current program. 135 cases have been processed and the level of activity varies from year to year with the high being 26 in one year.

#### ***Rules Governing the Activity***

GAO Order 2713.2, Discrimination Complaint Process, Chapter 2, Mediation Program, December 2, 1997.

#### ***Contact***

Dolores H. Crawford, Program Manager, General Accounting Office, Civil Rights Office, 41 G Street, NW, Room 6F08, Washington, DC 20548; Telephone: (202) 512-4715; FAX: (202) 512-4818; Email: [crawfordd.sup@gao.go](mailto:crawfordd.sup@gao.go).

## General Services Administration

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

In accordance with 29 CFR Part 1614, an aggrieved individual may elect either the traditional EEO complaint procedures or the agency's ADR program. If the individual is member of one of the bargaining units, the negotiated grievance procedure is also one of the options from which the election may be made. If the

ADR program is elected, the precomplaint processing period is extended for an additional 60 days, and the individual agrees to waive anonymity to aid in resolution of the problem. Mediation is the only technique currently used. A number of agency staff members have been trained in the mediation process.

***Background/Objective***

The program was devised in response to a decision from the top of the agency EEO structure that GSA would have a credible means of resolving problems throughout the complaint stage.

***Duration/Current Activity***

GSA made a decision to implement the ADR program nationally in 1994, and the program has been in effect since that time.

***Rules Governing the Activity***

Operating procedures are currently being revised and should be issued sometime in 2000.

***Contact***

Bill Conley, General Services Administration, Office of Civil Rights, 18th and F Streets, NW, Washington, DC 20405; Telephone: (202) 501-0767; FAX: (202) 219-3369.

## **General Services Administration Greater Southwest Region**

### **ADR Technique: Mediation**

***How the ADR System Works***

The General Services Administration (GSA) in the Greater Southwest Region, provides mediators for any requested Government mediation. The mediators (Cadre members) volunteer to spend their resources (mileage, time, parking) to mediate a requested case within the Dallas Forth Worth metroplex area. When an agency, or service of GSA is willing to fund the travel expenses, a GSA volunteer mediator will fly to another area. The mediators also assume mediation responsibilities in addition to normal assigned work responsibilities. First, a request for a mediator is sent to the Regional Counsel (RC). Often the parties will first contact a contracting officer, supervisor, or EEO Officer who then forwards the request to the office of Regional Counsel. Second, the parties involved in the mediation are required to sign an authorization of agreement to mediate in good faith, and to provide two optional dates and times for the mediation. Third, the mediator sends the request to either of the two volunteer mediator schedulers who arrange a place and find two co-mediators who are available to mediate that case. The scheduler (there are two in case one is not available) will handle the necessary scheduling work in notifying the parties of when, where, and who will mediate.

***Background/Objective***

The objective of the volunteer Cadre is to provide an EASY TO ACCESS resolution

method to disputants. The goal of the GSA Cadre mediators is to mediate. The only way to mediate is to have disputants request mediation. The ease of accessing the process was determined to be critical to the success of the program. The volunteer Cadre members perform many "behind the scene tasks" to keep the program alive and accessible. The disputants need only bring a dispute to the Cadre.

### ***Duration/Current Activity***

The Greater Southwest Region Cadre began in 1995 with record keeping charts starting in 1996. The Cadre is presently comprised of 27 experienced mediators and is growing in numbers. Currently, the Cadre has added 8 new members. The Cadre continues to meet once a month and has established a permanent "brown bag" luncheon on the third Thursday of each month. An advertising campaign is promoting an all new and active program for agencies and tenants of the Fritz Lanham Federal Building at 819 Taylor Street in Fort Worth, Texas.

### ***Rules Governing the Activity***

The Cadre is defined as an actual working democracy. The members are voluntary, the chairperson of the monthly meetings is a different volunteer each month. The meeting format is presented by the chairperson, and generally includes an update on new members, mediation statistics (settlements, numbers) and includes shared tales of experiences for mediators. When a need arises, a volunteer is requested. New educational training opportunities are presented. A report on the DFW/FEB/ADR program is presented when that group has met. The rules are non-existent, the goal is to keep a functioning group of mediators available when needed.

### ***Contact***

Jerry Ann Foster, Regional Counsel (GSA) or Sara Meadors, Paralegal, 819 Taylor, Room 11A31, Fort Worth, TX 76102. Telephone: 817-978-2325; FAX: 817-978-4924. Email: [jerryann.foster@gsa.gov](mailto:jerryann.foster@gsa.gov) or [sara.meadors@gsa.gov](mailto:sara.meadors@gsa.gov).

## **Health and Human Services**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

This ADR program covers informal Equal Employment Opportunity (EEO) complaints initiated by current employees of the Office of the Secretary and the Administration on Aging at headquarters and in the ten Federal regional cities. This includes bargaining unit and non-bargaining unit employees who present issues covered by 29 CFR Part 1614. Mediation is an alternative to EEO counseling. If the informal complaint is not resolved through mediation, the employee may file at the formal stage. Participation in this process is voluntary on the part of the aggrieved individual. The program's coverage does not rule out any personnel actions or EEO matters.

#### ***Background and Objective***

The objective is to resolve informal complaints prior to the formal EEO complaint process.

***Duration/Current Activity***

The pilot ADR program has been extended one year, from October 1, 1999 through September 30, 2000.

***Rules Governing the Activity***

The rules are contained in the issuance "Alternative Dispute Resolution of Informal EEO Complaints through Mediation--A Pilot Program."

***Contact***

Barbara Aulenbach, EEO Director, Office of the Secretary, HHS, 200 Independence Ave., SW, Washington, DC 20201; Telephone: (202) 619-1564; Fax: (202) 619-0823.

## **Health and Human Services Centers for Disease Control and Agency for Toxic Substances Disease Registry**

**How the ADR System Works**

The Centers for Disease Control and the Agency for Toxic Substances Disease Registry's (CDC/ATSDR) ADR program offers dispute resolution and prevention processes such as mediation, collaboration, partnering, conciliation, and facilitation to all employees including civilians, members of the Public Health Service, members of the Commissioned Corps and Fellows employed by the CDC and ATSDR. The ADR program was established in 1996. It serves approximately 8500 employees and is a global program used to resolve day-to-day conflicts, including equal employment opportunity complaints at all stages of the process, grievances, general communication and interpersonal relationship problems between supervisors and employees or between colleagues. Parties interested in using the ADR processes contact the ADR Office directly to request a confidential meeting. Referrals are also received from the Equal Employment Opportunity (EEO) Office, the Employee Assistance Program Office (EAP), and the Human Resources Management Office. The ADR program includes three full-time staff members and an extended staff of approximately 37 mediators available through the Atlanta Federal Executive Board's Shared Neutrals cadre, which is managed by the CDC ADR office. The ADR Director also serves as the contract Ombudsman for CDC and ATSDR.

***Background/Objective***

There are a variety of ADR processes used in resolution of disputes at CDC and ATSDR since program staff believe that the parties must have maximum flexibility in resolving concerns and issues. While mediation or facilitated discussion remain the most favored processes, ANYTHING THAT WORKS may be used as long as the involved parties agree. A great deal of energy is expended and focus placed on early intervention activities, training and marketing the program to elevate awareness of the ADR process as an effective and viable alternative to the traditional dispute resolution mechanisms. ADR is voluntary for employees but participation is mandatory for supervisors and managers. All participants in ADR processes are entitled to and encouraged to include representatives, whether a Union

representative, attorney counselors, Human Resource representatives or friends and family members, for moral support. Significant amounts of time are spent managing the expectations of the process, ensuring that all participants understand what ADR is about, what the chosen process looks and may feel like, what their roles in the process entail, and providing an opportunity to ask any questions about the process. In addition to one-on-one discussion about the process, e-mail information about the ADR process selected is provided to participants for review prior to scheduled sessions. There is no charge for services provided. All employees, supervisors and managers were offered Conflict Resolution Skills and ADR awareness training when the program was instituted in the 1996 timeframe. Conflict Resolution Skills training continues on a regular and recurring basis and is also tailored to fit specific situations and provided as requested. Additionally, the ADR Office staff provides team and trust building sessions for groups undergoing difficult change or experiencing conflict.

### ***Duration/Current Activity***

The ADR program was established in 1996 and became operational at that time. CDC and ATSDR strive to institutionalize key aspects of ADR throughout the organization. Focus on early intervention as a preventative mechanism and recurring training to increase awareness of the availability and benefit of ADR as a resource for all employees has resulted in a dramatically increased usage by employees at every level.

### ***Rules Governing the Activity***

Rules governing ADR at CDC and ATSDR are contained in partnership agreements, memoranda of understanding, agency collective bargaining agreements and various other agency documents.

### ***Contact***

Reba Rivera, Director, ADR, CDC/ATSDR, 1600 Clifton Road, ATTN: MS D-67, Atlanta, GA 30333; telephone (404) 371-5917; e-mail [ror5@cdc.gov](mailto:ror5@cdc.gov); fax (404) 371-5923. Internet web site address:

<http://webdev.cdc.gov//od/adr/index.htm>

## **Health and Human Services Centers for Medicare & Medicaid Services**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Centers for Medicare & Medicaid Services's (CMS's) Alternative Dispute Resolution (ADR) Program for Equal Employment Opportunity (EEO) complaints became operational on September 15, 1999, as a joint venture with the American Federation of Government Employees (AFGE) - Local 1923. The program, identified by the acronym CARE - Conflicts Addressed and Resolved Expeditiously, covers EEO complaints initiated by CMS employees and applicants for employment at the Agency's central office in Baltimore, MD and in its ten regional offices across the country.

The program offers mediation as an alternative to the traditional EEO process during both the informal and formal stages. Mediators for these cases are obtained through the Department of Health and Human Services' Sharing Neutrals Program and various Federal Executive Boards' Sharing Neutrals Programs nationwide. On occasion, CMS has contracted with GSA-approved vendors for this service. The parties have 90 days to engage in mediation. If during this allotted time the parties reach an agreement, the case is closed and the agreement is binding on all parties. If the matter is not resolved during mediation, the complaint continues through the traditional EEO process.

Since January 2000, 90% percent of CMS's 450 managers have attended a 1-day ADR training session provided by the Federal Mediation and Conciliation Service. Beginning in January 2002, CMS will not only continue training its managers and supervisors on ADR, but will also expand the training endeavor to include all CMS employees to further market the program and encourage continued success.

### ***Background/Objective***

The purpose of the program is to resolve EEO concerns/complaints at the earliest possible stage of the complaint and at the lowest level within the organization; restore productivity to areas affected by complaints; and improve working relationships.

### ***Duration/Current Activity***

The program, introduced as an 18-month pilot in September 1999, continues to be an option for employees and applicants as a means to address EEO concerns. Since September 1999, 65 % of the complaints mediated have been settled. This significant success of resolving EEO complaints through CARE has resulted in a considerable reduction in formal complaint filings. Over the last two years, the Agency has realized a 49% decrease in formal complaints.

### ***Rules Governing the Activity***

The rules governing this activity are contained within CMS's ADR Program for EEO Complaints. In sum, the program conforms to the core principles set forth in EEOC's policy statement on ADR; fairness, voluntariness, neutrality, confidentiality, and enforceability.

### ***Contact***

Ramon Suris-Fernandez, Director, Office of Equal Opportunity and Civil Rights, Centers for Medicare & Medicaid Services, 7500 Security Blvd., N2-22-16, Baltimore, MD 21244-1850; Telephone: 410-786-5110; Email: [rsurisfernandez@cms.hhs.gov](mailto:rsurisfernandez@cms.hhs.gov)

## Health and Human Services Food and Drug Administration

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Food and Drug Administration (FDA) has a two-track Dispute Resolution System (DRS) for nonbargaining unit employees. An employee may choose to air a complaint through Track 1 (the ADR track) or Track 2 (a two-stage grievance track). Track 1 allows resolution of disputes through mediation. Track 2 is a traditional written grievance system. If resolution is not accomplished through mediation, the grievant may elevate the complaint to the second stage of the grievance track.

#### ***Background/Objective***

The Department of Health and Human Services (DHHS) has provided a grievance system for the use at all DHHS agencies for many years. In 1995, the Department gave permission for DHHS agencies to develop their own grievance systems. FDA enthusiastically began to develop a creative grievance system using ADR. The objective of FDA's program is to give employees the choice between resolving disputes through the newly introduced mediation procedures or the traditional written grievance methods with which some employees are more comfortable.

#### ***Duration/CurrentActivity***

The FDA Dispute Resolution System has been in use since January 13, 1997. An updated version, providing fine tuning and clarifications, became effective in February 1998.

#### ***Rules Governing the Activity***

The procedures for governing the DRS are contained in instructions issued by FDA.

#### ***Contact***

Theresa Foster and Cecilia Boswell, Deputy Director, Division of Employee and Labor Management Relations, Food and Drug Administration, HFA-430, Room 9-89, 5600 Fishers Lane, Rockville, MD 20857; Telephone: (301) 827-4180; Email: [tfoster@oc.fda.gov](mailto:tfoster@oc.fda.gov) and [cboswell@ora.fda.gov](mailto:cboswell@ora.fda.gov).

## Health and Human Services Food and Drug Administration

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

In addition to its Dispute Resolution System (DRS), opportunities to resolve differences in a less formal manner are provided by FDA. Mediation is the process most commonly used to help resolve employee-supervisor disputes and difficulties among peers by those who prefer the flexibility of informal problem solving. FDA has a number of employees who have been trained in the mediation process. FDA has

also provided neutrals to other agencies and is open to reciprocally using these resources when concerns about neutrality exist. The goal of this effort is to effectively resolve differences as early as possible by allowing employees to be directly involved in creating solutions. A written settlement agreement that captures the parties' resolution is another goal. The DRS remains an option for matters not excluded by its procedures when this avenue does not resolve the issue.

### ***Background/Objective***

FDA recognizes that employees occasionally have organizational concerns or experience interpersonal conflict while at work. Unresolved issues create problems with morale, communication, teamwork, productivity, etc. One of the methods FDA uses to address such matters is to offer mediation (or other appropriate problem-solving strategies). Our objective is to keep FDA as productive as possible by reducing the stress and discomfort in the workplace that often results from the adversarial process.

### ***Duration/Current Activity***

FDA staff has been trained in the methods of ADR for a number of years. In 2000, FDA will have two certified Dispute Resolution Specialists on staff.

### ***Rules Governing the Activity***

There are no formal, internal rules governing this approach to resolving disputes. Parties voluntarily enter into the process. The normal expectations of neutrality and confidentiality are clearly understood and accepted by the staff serving as mediators. Managers and other employees learn of and secure this assistance through the Division of Employee and Labor Management Relations.

### ***Contacts***

Theresa Foster and Cecilia Boswell, Employee Relations Specialists, Food and Drug Administration, Parklawn Bldg. Room 9-89 HFA-430, 5600 Fishers Lane, Rockville, MD 20851; Telephone: (301) 827-4180; FAX: (301) 443-0087; Email: [tfoster@oc.fda.gov](mailto:tfoster@oc.fda.gov) and [cboswell@ora.fda.gov](mailto:cboswell@ora.fda.gov).

## **Health and Human Services National Institutes Of Health**

### **ADR Technique: Ombudsman**

#### ***How the ADR System Works***

The Office of the Ombudsman/Center for Cooperative Resolution coordinates and provides a full range of dispute resolution services for all 25 of NIH's Institutes and Centers. The Ombudsman, who directs the Center, serves as a focal point for conflict resolution at NIH by (1) providing confidential, neutral, informal assistance to employees and managers in resolving work-related concerns and (2) developing and coordinating effective dispute resolution processes and procedures.

Staff Ombudsmen work in conflict intervention, conflict prevention and internal education on ways to manage conflict. They address individual conflicts and

concerns as well as multi-party and group conflicts. They address every sort of issue that arises in the NIH environment - scientific disputes and employee-supervisor conflicts, racial and ethnic tensions and difficulties between peers. Although all of the staff are trained mediators, they employ a full array of ADR techniques in addition to mediation- facilitation, shuttle diplomacy, coaching, consulting, peer panels and partnering agreements. The Ombudsmen are scrupulous in maintaining neutrality and independence and rigorous in protecting confidentiality.

### ***Background/Objective***

In 1995, the Directors of the Office of Equal Opportunity and the Office of Human Resource Management initiated a collaboration to reinvent dispute resolution at the NIH. Everyone within the system considered the traditional administrative dispute processes to be ineffective and costly to the organization, both economically and in terms of employee productivity and morale. They formed a NIH ADR Working Group charged with designing and implementing a program that would work independently of the traditional formal dispute systems. Within the scientific community, the Deputy Director for Intramural Research, also recognizing the need to more effectively address conflicts arising within the scientific staff, had charged the Committee on Scientific Conduct and Ethics with developing a process for resolution of scientific disputes. These efforts were merged into one. The Working Group researched various models of ADR and recommended adoption and development of an Ombudsman program over the more prevalent mediation-only programs. After a one year pilot project serving five institutes, its success led to its expansion to the entire organization in January of 1999.

The Center's goals and objectives are to:

1. Further scientific research through efficient, effective and innovative conflict management and resolution methods.
2. Provide an alternative to traditional grievance and equal employment opportunity (EEO) complaint processes.
3. Improve the work environment, preserve work place relationships, and enhance the quality of work life.
4. Reduce the costs associated with, and time committed to, traditional formal dispute processing.
5. Improve participant satisfaction with dispute resolution and its outcomes.

### ***Duration/Current Activity***

The Office of the Ombudsman serves a population of approximately 20,000 NIH scientists, administrators and support staff across 25 NIH Institutes and Centers. In 1999, the Office of the Ombudsman handled a total of 328 cases involving a total of 777 consumers. 357 (46 percent) were complainants and 420 (54 percent) were respondents. Many of the cases involved multiple issues. In addition, it is common for multiple processes to be used on a particular case. More than 40 percent of all cases are closed within two weeks, 60 percent of cases were closed within 6 weeks and over 90 percent of all cases were closed in 6 months.

### ***Rules Governing the Activity***

The staff strictly adhere to The Ombudsman Association's Code of Ethics and Standards of Practice for organizational ombudsmen. The NIH Office of the Ombudsman was established as an independent, neutral, confidential, informal office. The Ombudsman reports directly to the Deputy Director of NIH. The Ombudsman does not make or change policy.

### ***Contact***

Howard Gadlin, Ombudsman, Office of the Ombudsman, Center for Cooperative Resolution, National Institutes of Health. 9000 Rockville Pike, Bldg. 31, Room 1B39, MS-2087, Bethesda, MD 20892; Telephone: (301) 594-7231; FAX: (301) 594-7948.

## **Health and Human Services Phoenix Area Indian Health Services**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Phoenix Area Indian Health Service has developed a Management Intervention process that is formally established under a policy issuance and is extended to the initial processing of all Equal Employment Opportunity (EEO) complaints. If the employee chooses the Management Intervention process, 30 days are allowed for the mediation of the dispute. If the process is not effective, the complainant has the remaining 15 calendar days in which to seek EEO counseling to continue pursuit of the dispute. The management intervention process is coordinated by the Area's full-time EEO counselor to ensure that timeliness and confidentiality are maintained and that the process is properly documented. In 1998, each service unit appointed a mediator who was given 24 hours of certified training. In addition to Indian Health Services mediators, the Phoenix Federal Mediation and Conciliation Service is used to provide mediation service.

#### ***Background/Objective***

In addition to the use of mediation in the Management Intervention process, the Phoenix Area Indian Health Service utilizes management review process called Quality Review ADR to address if and why a management process created an allegation of discrimination. If a quality management issue surfaces in the complaint findings, management ensures that corrective measures are instituted. The objective of both processes is to reach an expedient, informal resolution of the EEO complaint at the lowest organizational level.

#### ***Duration/Current Activity***

The model of Quality Review ADR was instituted in 1992 and revised in 1997. This model is part of the informal EEO counseling process. An informal Management Intervention process has been used since 1990 to address sexual harassment complaints. The application of the Management Intervention process for all EEO complaints was formally instituted in 1997 with a policy issuance. This process has helped to effectively resolve EEO informal complaints effectively.

### ***Rules Governing the Activity***

Under the quality review model, each management committee member follows standard procedures in the review process, submits a record of the review, and meets at pre-closeout sessions to discuss the ramifications of the complaint, risk management and the disposition of the complaint.

### ***Contact***

Cecelia Heftel, Director, EEO & Civil Rights Staff, Indian Health Service, 5600 Fishers Lane, Room 6A-14, Rockville, MD 20857; Telephone: (301) 443-1108; FAX: (301) 443-0096; Email: [cecelia.heftel@hqe.ihs.gov](mailto:cecelia.heftel@hqe.ihs.gov).

## **Interior**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

Under the agency's decentralized ADR program, each Bureau is required to develop and implement an ADR plan; to designate a senior official as a dispute resolution specialist; to establish training programs on ADR methods; to review standard language in contracts, grants, and other agreements for inclusion of ADR provisions; and to adopt a formal ADR policy on: formal and informal adjudications, rulemakings, enforcement actions, issuing and revoking licenses and permits, contract administration, litigation brought by or against the agency, and other agency action. The ADR policy encourages the use of ADR techniques and negotiated rulemaking to the fullest extent practicable. A comprehensive ADR program was developed and implemented by the Equal Employment Opportunity Office to respond to allegations of discrimination. Each Bureau is encouraged to use ADR to avoid workplace conflict, and to facilitate faster resolution of other internal workplace disputes. The Secretary of the Interior designated the Director of the Office of Hearings and Appeals to serve as the Dispute Resolution Specialist (DRS) to facilitate intra-agency coordination, communication, and training; to establish minimum qualifications for mediators, arbitrators, and agency employees with ADR responsibilities; to monitor and report to the Secretary of the Interior on implementation and effectiveness of all agency ADR plans; and to disseminate knowledge about ADR.

#### ***Background/Objective***

The ADR policy was adopted to reduce the time, cost, inefficiencies, and contentiousness associated with litigation and other adversarial dispute resolution mechanisms. It encourages the use of ADR techniques by the Bureaus to achieve mutually acceptable solutions to disputes, to foster the cooperative development of regulations, and to avoid conflicts and disputes whenever possible. Each Bureau was allowed discretion, however, to tailor its ADR plan and policy to meet its own needs and circumstances.

#### ***Duration/Current Activity***

The DRS is in the process of evaluating and reporting to the Secretary of the Interior on the Bureaus' experiences and progress in implementing their respective ADR

plans since implementation of the agency's final ADR policy in August 1996. The Bureaus are reporting extensive ADR training efforts, and successful use of a variety of ADR techniques, including mediation, partnering, negotiated rulemaking, cooperative problem-solving, and interest-based problem solving. The agency continues to advocate for greater use of ADR techniques by the Bureaus whenever practicable, while allowing decentralized decision-making.

### ***Rules Governing the Activity***

The agency published its interim ADR policy on June 13, 1994, 59 Fed. Reg. 30368, and its final ADR Policy on August 2, 1996, 61 Fed. Reg. 40424. There are several internal ADR program issuances and directives.

### ***Contact***

Robert L. Baum, Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, 11th Floor, Arlington, VA 22203; Telephone: (703) 235-3810; FAX: (703) 235-9014; Email: [robert\\_baum@ios.doi.gov](mailto:robert_baum@ios.doi.gov).

## **Interior DOI Human Resources Management**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The CORE (CONflict RESolution) Program was established for the Department of the Interior and with the flexibility to allow each bureau and office to develop implementing procedures based on specific capabilities and local needs. The CORE Program focuses on: (a) maximizing the use of ADR methods; (b) improving personal communications between parties involved in workplace disputes; (c) preserve relationships between employees and supervisors using interest-based focus; and, (d) allowing employees and management to address specific workplace concerns for positive organizational change. The CORE Program does not provide any extension of time frames in which to seek redress under formal administrative processes, with the exception of allowing an additional 15 days to file a formal administrative grievance after receipt of a Notice of Results and Options when resolution was not reached. CORE services are normally provided within 15 days, and possible extensions. All employees (non-supervisory, supervisory, managerial, and senior executives) are free to use this procedure without restraint, interference, coercion, discrimination, or reprisal of any kind. In order for bargaining unit employees to have access to the CORE Program, there must be specific authorization in the collective bargaining agreement or in an MOU. Bureau Directors ensure that management participates in ADR when requested by a party bringing an issue or concern to the CORE Program. If an employee's supervisor is directly involved in the concern and does not voluntarily participate, the participation of another manager, preferably in the employee's supervisory chain of command, is required.

#### ***Background/Objective***

The Department has the goal of reducing workplace conflict among employees and between employees and employer. The CORE Program was developed as an early

intervention alternative to other established resolution dispute processes. The major tenet of the CORE Program is to provide fair, equitable and effective means for resolving workplace disputes at the lowest organizational level, by: (1) providing information to address specific workplace issues or concerns, and (2) provide neutral dispute resolution assistance.

***Duration/Current Activity***

Use of ADR to resolve workplace disputes through CORE services has shown steady increase throughout the Department since implementation of the CORE Program.

***Rules Governing the Activity***

Administrative Dispute Resolution Act of 1996, P.L. 104-320; 5 U.S.C. Section 571-584. Department of Interior Departmental Manual 370 DM 770, effective date: 3/17/00.

***Contact***

Sarah Rogers, CORE Program Coordinator, 1849 C Street, NW, MS 5221, Washington, DC 20240; telephone 202-219-0813; fax 202-482-3179.

## Justice

### **ADR Technique: Multiple Techniques**

***How the ADR System Works***

In handling lawsuits brought by and against the United States, Department of Justice attorneys use many different forms of consensual dispute resolution, with a particular focus on mediation. Cases are placed into mediation at the request of the court, opposing counsel, or a Department attorney, as long as all parties agree. Where court-sponsored programs are not available, the attorneys work with opposing counsel to find a suitable ADR provider and share the relevant expenses. As the biggest user of the Federal courts in the country and the nation's most prolific litigator, the Department recognizes the necessity of considering alternatives to litigation in all appropriate cases. The goal of the Department's program is to benefit litigants by producing better and quicker results, and benefit the entire justice system by preserving the scarce resources of the courts for the disputes that only courts can decide.

***Background/Objective***

The Attorney General issued an Order on April 6, 1995, to promote the broader use of ADR in appropriate cases to improve access to justice for all citizens and to lead to more effective resolution of disputes involving the Government. The Department's program is focused on civil matters, rather than criminal matters or enforcement of criminal fines.

***Duration/Current Activity***

While Department attorneys had been using ADR prior to the Attorney General's 1995 Order, utilization of these processes has increased dramatically in recent years. The Order created the Office of the Senior Counsel for Dispute Resolution to coordinate ADR activities on a Department-wide basis. The office has trained Assistant United States Attorneys and Department litigators around the country and continues to provide follow-up and advanced training. The office also works on policy-making, legislation, and other activities in the ADR

field. The Attorney General also serves as the Chair of the Interagency Working Group on Alternative Dispute Resolution, a large group of Federal agencies seeking to increase their use of ADR.

#### ***Rules Governing the Activity***

The Department has no special rules on ADR use. Because it is well recognized that the United States cannot be forced to settle a case over its objection, the hallmark of this program is a consensual approach by all parties.

#### ***Contacts***

Peter R. Steenland, Senior Counsel for Alternative Dispute Resolution and Jeffrey M. Senger, Deputy Senior Counsel for Alternative Dispute Resolution, Department of Justice, 950 Pennsylvania Avenue NW, Room 5240, Washington, DC 20530; Telephone: (202) 616-9471.

## **Justice**

### **Executive Office for United States Attorneys**

#### **ADR Technique: Mediation**

##### ***How the ADR System Works***

The Executive Office for United States Attorneys (EOUSA) Equal Employment Opportunity (EEO) ADR program allows parties to resolve disputes themselves by employing neutrals, in the form of ADR-trained Assistant United States Attorneys (AUSAs), as mediators. EOUSA's mediators are trained at the National Advocacy Center, run by the Department of Justice's Office of Legal Education. Mediation gives parties to the dispute an investment in the settlement by assuring that the resolution of the ADR will originate with the parties, rather than as a decision from a third party.

##### ***Background/Objective***

The Executive Office for United States Attorneys (EOUSA) Equal Employment Opportunity (EEO) Alternative Dispute Resolution (ADR) program was created in 1995, pursuant to the Attorney General's Order 1200.1, and provides mediation services for all 94 United States Attorneys Offices (USAOs), as well as the employees of EOUSA.

##### ***Duration/Current Activity***

In accordance with 29 C.F.R. § 1614.102(b)(2), the EOUSA EEO Staff has established an ADR Program to resolve discrimination-based disputes prior to, and after, the filing of a formal EEO complaint. Under MD-110 all Complainants/Aggrieved Persons may request ADR mediation at any stage of the EEO process.

##### ***Rules Governing the Activity***

EOUSA's ADR program follows 29 C.F.R. §1614.102, MD-110, and DOJ Human Resources Order 1200.1. If the EEO Staff has determined that a case is appropriate for ADR, and an aggrieved person complainant has requested the use of ADR in his/her case, management is required to participate in ADR, in good faith, pursuant to DOJ Human Resources Order 1200.1. For further information on EOUSA's ADR or EEO programs, see the website below.

### **Contact**

Juan Milanes, Assistant Director, Equal Employment Opportunity Staff, EOUSA,  
Department of Justice, 600 E Street, NW #2300, Washington, DC 20530. Telephone: (202)  
514-3982. Website: [www.usa.doj.gov/staffs/eoo/](http://www.usa.doj.gov/staffs/eoo/)

## **Justice Federal Bureau Of Investigation**

### **ADR Technique: Settlement**

#### ***How the ADR System Works***

The FBI's Office of Personnel Dispute Resolution (OPDR) provides training to and relies on the experience of senior-level managers to attempt to negotiate settlements of EEO complaints upon completion of an investigation of a formal complaint. OPDR assigns such complaints to these Management Officials (MOs), provides advice and assistance in their negotiations, and prepares legally binding settlement agreements if resolutions are reached. OPDR was established to work outside the FBI's Office of Equal Employment Opportunity Affairs (OEEOA) to provide an independent means of resolving EEO complaints prior to their reaching the formal decision stage. OPDR also receives requests to become involved in the attempted resolution of employee complaints prior to the use of the formal EEO process. These referrals usually come from EEO Counselors, but OPDR's assistance in resolving issues may be requested by supervisory or executive management throughout the FBI, including all field offices.

#### ***Background/Objective***

OPDR was established in 1991 to comply with 29 CFR, Section 1613.217, which mandated agencies to provide an opportunity for adjustment to EEO complaints on an informal basis and to provide the complainant the opportunity to discuss the case with appropriate officials. The goal of OPDR is to resolve EEO-related complaints without assigning fault. Each party will get something they want as opposed to a win/lose situation which occurs from a final decision; both parties save time and the expense of litigation, and both parties can focus on their day-to-day activities rather than dwell on past events.

#### ***Duration/Current Activity***

OPDR is staffed with a Unit Chief and a Management Analyst, who report to the Deputy Assistant Director/Personnel Officer (Personnel Assistance and Facilities Management Branch) of the Administrative Services Division at FBI Headquarters. OPDR continues to rely on the experiences of senior-level managers to attempt the resolution of complaints; however, since the earlier regulation *EEOC* was replaced by 29 CFR, Section 1614.603, providing that agencies shall make efforts to voluntarily settle EEO complaints of discrimination as early as possible throughout the process, OPDR's responsibility for resolving EEO matters has increased to provide for attempted resolution prior to the formal filing of EEO complaints.

#### ***Rules Governing the Activity***

OPDR is in compliance with 29 CFR Section 1614.603. The confidentiality and informality of negotiations preclude the need for extensive record keeping. OPDR works closely with the

FBI's OEEOA and the Office of General Counsel to ensure compliance with all Federal and agency regulations.

**Contact**

Colleen Baldwin, 935 Pennsylvania Avenue, NW, Washington, DC 20535; Telephone: (202) 324-1632; FAX: (202) 324-5153. E-mail: <mailto:opdr.personnel@fbi.gov>

## **Justice Federal Bureau Of Investigation**

### **ADR Technique: Ombudsman**

***How the ADR System Works***

The FBI Ombudsman is an employee of the agency who assumes a neutral role in dealing with work-related concerns of FBI employees. All contacts with the Ombudsman are afforded confidentiality, and no action is taken without the approval of the caller or visitor. The Ombudsman works outside the normal chain of command and works through negotiation, mediation, consultation, influence, shuttlediplomacy, informal investigation, dispute resolution, and referral. The Ombudsman also operates as an early warning system by providing upward feedback to the organization on significant issues affecting employees. Typically, the Ombudsman explores options and attempts to achieve equitable solutions for all parties as an alternative to formal processes.

***Background/Objective***

The FBI Ombudsman position was established in 1981 by then Director William H. Webster as a result of a recommendation of the Special Agent Advisory Committee. The incumbent was appointed as the point of contact for field agents regarding problems and/or questions concerning transfer policies and other work issues which directly affected agents.

***Duration/CurrentActivity***

The FBI Ombudsman serves a two-year term of office, which can be extended up to a four-year period. The role of the Ombudsman has expanded considerably since its inception. Today, the Ombudsman responds to inquiries from support and agency personnel concerning a wide variety of issues. In addition, the Ombudsman travels to field offices upon request, gives presentations and provides consultation to outside entities, facilitates meetings of the Director's advisory committees, prepares statistical reports, evaluates trends, and actively promotes sound work values and concepts through various forms of communication, to include monthly articles in the agency's employee magazine.

***Rules Governing the Activity***

The FBI Ombudsman practices are consistent with the standards of conduct and the code of ethics of the Ombudsman Association.

**Contact**

Sarah Ziegler, Ombudsman, 935 Pennsylvania Avenue, NW, Room 6640, Washington, DC 20535; Telephone: (202) 324-2156; FAX: (202) 324-5188; Email: [ombudsmen@FBI.gov](mailto:ombudsmen@FBI.gov).

## Justice Federal Bureau Of Prisons

### **ADR Technique: Multiple Techniques**

#### *How the ADR System Works*

The Dispute Resolution Specialist (DRS) program (piloted at 6 institutions) was created to establish a collateral duty DRS at each institution. The DRS is jointly selected by the warden and local union president based on criteria developed at the national level. The DRS may resolve any type of workplace dispute involving all staff, including supervisor to subordinate disputes and co-worker to co-worker issues. The DRS has 10 days to resolve the issue. If the issue is not resolved, the staff member may escalate it to the Regional Dispute Resolution Administrator who also has 10 days and then to the Central Office Counsel for Dispute Resolution who also has 10 days. In total, it is a 30 day process.

#### *Background/Objective*

The objective of the DRS program is to create an informal dispute resolution system at each institution in which staff can have their workplace disputes addressed immediately, thereby decreasing the amount of EEO complaints, increasing staff satisfaction and productivity, and reducing costs.

#### *Rules Governing the Activity*

The DRS provides the staff member with a document which explains that it is the staff member's responsibility to protect his rights regarding meeting the time requirements of the EEO, union grievance and agency grievance processes. The DRS will respect the confidentiality of the staff member except with regards to allegations of criminal behavior or sexual harassment.

#### *Duration/Current Activity*

During the first ten months of the pilot, over 64 issues have cumulatively been brought to the attention of the 6 DRSs. Many of these are issues that the DRSs believed would have resulted in EEO complaints. Comparing EEO Complaints filed in FY 00 versus FY99, there has been a 33% reduction in filings at the piloted institutions.

#### *Contacts*

Mina Raskin, Counsel for Dispute Resolution, Bureau of Prisons, 320 First St., NW, Washington, DC 20534; Telephone:(202)307-3062; FAX:(202)307-2995; Email:[mraskin@bop.gov](mailto:mraskin@bop.gov).

## Justice United States Marshals Service

### **ADR Technique: Multiple Techniques**

#### *How the ADR System Works*

The United States Marshals Service (USMS) uses multiple techniques in their ADR Program

in order to resolve workforce disputes. Most common techniques utilized include: mediation, factfinding, interest-based bargaining, and ombuds. Employee Involvement Processes (EIP) include: the USMS Partnership Council, Labor Management Committee, Business Process Review Facilitation, and Advisory Panels.

### ***Background/Objective***

The two year pilot program initiated in 1996 was established to use various ADR techniques to quickly resolve workforce disputes in an efficient and timely process, avert costly EEO settlements and grievances, and promote a renewed, positive working relationship between the parties to enable the USMS mission to be accomplished without prolonged disruption.

### ***Duration/Current Activity***

The program became fully operational in October 1998. The policy was finalized, an employee handbook was distributed, and a USMS ADR web page was established. The USMS is pursuing supervisory as well as employee training in conflict resolution. The USMS also plans to actively participate in the Interagency Working Group on ADR created by the President to assist agencies in meeting their obligations under the ADR Act of 1996.

### ***Rules Governing the Activity***

Rules governing the program are the ADR Act of 1996, Public Law 104-320, the USMS Policy and the ADR Employee Handbook.

### ***Contacts***

Mr. Thomas Mulhern, United States Marshall Service, Labor Relations Officer, 600 Army Navy Drive, Suite 850, Arlington, VA 22202-4210; Telephone: (202) 307-9863; FAX: (202) 557-9702; Email: [tom.mulhaern@usdoj.gov](mailto:tom.mulhaern@usdoj.gov).

## **Labor**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Early Resolution of EEO Complaints (EREC) program offers mediation as an option in the informal and formal stages of the EEO complaint process:

***Informal stage*** — During the initial interview with complainant, the EEO counselor describes the EREC option, along with the traditional counseling process and the complainant's rights and responsibilities. If the complainant elects mediation (by signing an agreement to extend counseling and to mediate), the counselor does an expedited, limited factfinding and forwards the counselor's report to DOL's Coordinator of Counselors (COC), who convenes a meeting of the EREC Team (which includes the responding agency's EEO manager) to consider broad options for resolution. Subsequently, the COC names the mediator, who schedules the mediation, and the agency EEO manager selects the agency Settlement Official from a list of officials (usually SES) to whom the Assistant Secretary of the responding agency has delegated authority to negotiate a resolution and commit the agency to it. The Settlement Official replaces the responding official in the mediation process to ensure that proposed resolutions can be implemented. Where issues are resolved in mediation, resolution is captured in a settlement agreement signed by both parties. Where

issues remain unresolved, the complainant is given a notice of right to file and has 15 days to file a formal complaint on the unresolved issues.

**Formal stage** — The complainant is informed in the letter accepting the formal complaint that he/she may request mediation at any stage in the formal process. The option is offered again in the letter transmitting the completed investigative file to the complainant and offering the complainant the choice of an agency decision or an EEOC hearing/decision. Should the case be accepted for mediation at this stage, mediation (see informal process above) proceeds in parallel with the agency's drafting of the decision or the request for hearing to EEOC.

### ***Background/Objective***

The Civil Rights Center (CRC), organizationally located within the Office of the Assistant Secretary for Administration and Management, developed the EREC program in response to recommendations of the National Performance Review. The program complies with recent revisions to 29 CFR Part 1614. EREC objectives include: allowing parties to resolve disputes themselves; encouraging open communication in a nonthreatening environment; using a neutral third party to help parties clearly identify the problem and underlying interests as a basis for resolution; avoiding administrative process time/costs and protracted litigation; and improving workplace relationships.

### ***Duration/Current Activity***

Fully implemented in the informal process in DOL (headquarters and all regions) as of 10/1/96, and in the formal stage of the EEO process effective 11/9/99.

### ***Rules Governing the Activity***

CRC Policy Memorandum 6 describes the EREC program.

### ***Contact***

Lynne Pratico, Chief, Office of Mediation, Counseling, and Evaluation, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N4123, Washington DC 20210. Phone 202/219-8927. E-mail: [pratico-lynn@dol.gov](mailto:pratico-lynn@dol.gov).

## **Library of Congress**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Library of Congress has established ADR agreements with its non-bargaining unit employees, American Federation of State, County, and Municipal Employees, Locals 2477 and 2910, and the Congressional Research Employees Association. Each agreement recommends the use of mediation to resolve workplace disputes whether they are equal employment opportunity complaints, grievances, or a category designated as "other." The LOC encourages parties involved in a dispute to resolve it directly through informal discussions, or through mediation facilitated by conveners in its Dispute Resolution Center. Parties retain the option, in certain limited circumstances, of using a peer panel process outlined in the negotiated agreements and the regulation.

### ***Background/Objective***

It is the policy of the LOC that disputes be settled informally at the lowest level possible. The LOC also encourages the use of ADR to devise interest-based resolutions to disputes. When possible, systemic problems are identified and recommendations are made for their resolution.

### ***Duration/Current Activity***

The Dispute Resolution Center was established on October 11, 1991. Since the Center's inception, it has proven to be very instrumental in the LOC's efforts to resolve disputes before they reach the formal stages of investigation, hearings, or District Court litigation.

### ***Rules Governing the Activity***

The rules governing this program are found in an LOC regulation and in negotiated agreements with the labor organizations.

### ***Contacts***

Andre C. Whisenton, Library of Congress, 101 Independence Ave., SE, Room 626, Washington, DC 20540; Telephone: (202) 707-4170. Cortez Austin, Library of Congress, 101 Independence Ave., SE, Room 624, Washington, DC 20540; Telephone: (202) 707-9403.

## **National Aeronautics and Space Administration**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

All ten NASA Centers have Alternative Dispute Resolution (ADR) programs in place that employ mediation to attempt settlement of complaints at the informal stage of the complaints process. NASA also has an ADR program at the formal stage of the complaint process that employs mediation. It can be used at any time after a complaint is filed up until a hearing, agency decision, or the filing of a civil action. The program at the formal stage uses contract mediators that have been certified as meeting the requirements of the Equal Employment Opportunity Commission's (EEOC) Management Directive (MD) MD-110.

#### ***Background Objective***

The objective of ADR is to obtain resolutions of employment disputes at the earliest possible time in the process and at the lowest organizational level. In addition, ADR may resolve disputes before positions harden, and it may highlight poor personnel or management practices that can be corrected before employees and managers become further polarized.

#### ***Duration/Current Activity***

NASA began a pilot program in ADR at Goddard Space Flight Center (GSFC) in December 1991, and all NASA Centers had adopted some form of ADR for use at the informal stage by 1994. When new EEOC regulations were proposed in 1998, that required ADR at both the informal and formal stages of the complaint process, NASA undertook a review of its existing ADR programs. As a result of that review, NASA's Office of Equal Opportunity Programs conducted an ADR/Mediation/Conference to provide a framework for the

refinement of existing programs or development of new programs at the NASA Centers for the informal stage as well as the development of an Agency Program for the formal stage of the process. Following EEOC's issuance of its final rule, NASA put in place an Agencywide ADR mediation system consisting of individual Center mediation programs at the informal stage of the process and a centrally operated Agencywide mediation program at the formal stage of the process.

The overall program has been operational since February 2000. All NASA Centers are reporting varying levels of activity and success. The Office of Equal Opportunity Programs has developed an ADR evaluation system which all Centers are using; however, the new programs and the evaluation system have not been in effect long enough to provide meaningful data.

### ***Rules Governing the Activity***

The Agency as well as the Center ADR mediation program have written procedures in place for the mediation processes, which define the role and responsibilities of all parties. The program is voluntary for both the complainant and the Center or Agency, and no rights are sacrificed during the processes. Settlement agreements are reduced to writing and signed by all necessary parties.

### ***Contact***

Jim Starnes, NASA Headquarters, Office of Equal Opportunity Programs (Code EC), Washington, DC 20546-0001; Telephone (202) 358-2180.

## **National Imagery and Mapping Agency**

### **How the ADR System Works**

ADR is a voluntary process in which parties agree to meet with a neutral, third party to resolve or prevent disputes. Disputes may be referred for ADR through contact with the director of the ADR program (ADRO) or by direct contact with a Facilitation and Mediation counselor (FMC). Upon receipt of the dispute, the ADRO or mediation counselor will decide if any of the ADR programs available are appropriate for purposes of addressing the dispute. If it appears that a program or process, within the mix of those offered by the Agency may address the dispute, the program, or process will be discussed with the parties and, upon their approval, scheduled.

### ***Background/Objective***

The long-term goal of the NIMA ADR Program is to create a world class ADR program to help NIMA reach its Strategic Goal of "shap[ing] [its] workforce and infrastructure to ensure mission success in the 21st century." To this end, those associated with the program have worked hard, under very short time lines, to build a program that not only provides excellent ADR services to employees that are flexible, cost-effective and non-adversarial, but also:

- Accounts for the evolving needs of a diverse group of NIMA employees and develops innovative solutions to accommodate their individual circumstances.

- Recognizes and implements technology improvements to make ADR training, services and information more accessible to all NIMA employees, regardless of location.
- Overcomes increasing budgetary constraints by encouraging partnership with outside agencies and organizations to lower costs.
- Continuously strives to increase management and employee awareness of the benefits of ADR.

#### ***Duration/Current Activity***

Since its commencement by NIMA in 1999, ADR has been shown to offer a number of benefits, including: (1) improving communication and trust between employees; (2) encouraging expeditious, creative, and inexpensive resolutions to disputes (3) discouraging formal and rigid procedures; and (4) prioritizing the need for employee privacy and confidentiality. ADR services are available for resolving disputes in any subject matter area, including equal employment opportunity disputes.

#### ***Rules Governing the Activity***

Any employee may elect to participate in NIMA's ADR program. NIMA bargaining unit members, however, may only participate upon the request of their bargaining unit representatives. Employees may choose the kind of neutral they would like to use. They may use an in-house neutral from either the FMC (NIMA's in-house ADR service) or NIMA's Roster of Mediators. Alternatively, employees may use neutrals from external governmental rosters of neutrals (e.g., Department of Defense Roster of Mediators) from private organizations specializing in ADR (e.g., Bowie State University).

## **National Security Agency**

### **ADR Technique: Ombudsman/Mediation - Dispute Resolution Center**

#### ***How the ADR System Works***

The Dispute Resolution Center (DRC) is the National Security Agency's (NSA) focal point for alternative dispute resolution (ADR). The DRC acts in an ombudsman role addressing employee issues and concerns, houses the Agency's Mediation Program, and administers the NSA Grievance Process. Our mediation process is voluntary: the goal is for both parties to reach an achievable solution satisfactory for all before the conflict is escalated into a formal and costly investigative procedure. The NSA Grievance Policy covers issues of employee concern or dissatisfaction in the workplace that are subject to control of Agency management. The DRC also benefits the workforce by creating a place for individuals to go with concerns and problems in the workplace that do not fit the criteria of rights-based formal systems, but are legitimate issues that threaten productivity and workforce morale.

#### ***Background/Objective***

The implementation of the DRC followed a successful two-year Alternative Dispute Resolution (ADR) pilot program conducted by the Office of Equal Employment Opportunity (OEEO). OEEO's pilot mediation program was initiated in order to help reduce a backlog of EEO complaints and the high costs associated with formal EEO investigations. The pilot mediation program was so successful that the agency mentor for the program decided to

expand the use of ADR to assist in resolving all types of workplace disputes and founded the DRC.

***Duration/Current Activity***

The Center has been in operation since November 1997 and has continuously marketed its services and the benefits of ADR. The DRC is in the process of coordinating with private organizations, and partnering with other DOD and federal government agencies.

***Rules Governing the Activity***

Rules governing the Grievance Policy are covered by agency regulation. Guidance for the mediation process adheres to the Justice Center of Atlanta's practices and is published in a mediation handbook. A policy directive for the ADR Program is in final draft.

***Contact***

The Dispute Resolution Center, APS20, National Security Agency, 9800 Savage Rd. Ft. Meade, MD 20755-6862 Suite 6862; telephone: (410) 854-6228; Fax (410) 854-6052.

## **Navy**

### **ADR Technique: Multiple Techniques**

***How the ADR System Works***

The Department of the Navy (DON) offers Workplace ADR services to all its civilian employees. Using mediation, facilitation, conciliation and a variety of other ADR processes, the DON is interested in using ADR in all formal arenas as well as resolving concerns at the lowest possible level when workplace disputes arise. In an effort to provide well-trained practitioners, DON has implemented a Mediation Certification Program. In September 2000, the Deputy Assistant Secretary of the Navy (CP/EEO) established an Ombudsman Program to expand opportunities that offer an impartial avenue for civilian managers and employees to explore areas of concern encountered while on the job.

***Background/Objective***

The DON Workplace ADR Program was originated in the early 1990's. While under DON's ADR Working Group, chaired by Mark Wilkoff, workplace mediators in the Navy Secretariat and Staff Offices along with ADR advocates in NAVAIR's EEO Program and NAVSEA's Employee Relations Program expressed interest in developing a certification program for mediator candidates. DON's former Office of Civilian Personnel Management sponsored mediation training for over 200 people. One of the goals of the DON Workplace ADR Program is to continue to foster growth for its mediators so they can provide competent services to the parties at the table. Additionally there is a focus to expand the use of ADR throughout the various formal arenas as well as encourage managers and employees to voluntarily seek ADR services when any form of workplace dispute is discovered.

***Duration/Current Activity***

Many Workplace ADR Programs developed over the last decade to meet the needs within DON. Several of these programs are highlighted on the Navy pages in this publication. Guidelines for Workplace ADR were developed for use by all involved with DON

Workplace ADR. A mediator handbook is under development. The focus this year is dedicated to provide refresher training, screening and co-mediations to assist successful candidates through the certification program. They have tripled their number of certified mediators since April 2000.

### ***Rules Governing the Program***

The DON Mediation Certification Program sets criteria to provide knowledge, determine skill, and hone the ability of each candidate. Additionally, the program guidance supports the adherence to SPIDR/AAA/ABA Ethical Standards for Mediators.

### ***Contact***

Mary Ryan, Department of the Navy Workplace ADR Program, Office of the Deputy Assistant Secretary of the Navy (CP/EEO), Nebraska Avenue Complex, DP-2, 321 Somers Court, NW, Suite 40101, Washington, DC 20393-5451; Telephone: (202) 764-0746; DSN7 64-0746; FAX: (202) 764-0788; email: [ryan.mary@hq.navy.mil](mailto:ryan.mary@hq.navy.mil); email: [ombudsman.workplace@hq.navy.mil](mailto:ombudsman.workplace@hq.navy.mil)

## **Navy Commander Navy Region Southwest (CNRSW), San Diego**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The CNRSW San Diego Dispute Resolution Center (DRC) was established in 1998 and serves 30,000 Navy and Marine Corps civilians, offering mediation and other ADR processes at a single Center with intake at multiple site offices in the Southwest Region. Former EEO and ER/LR Specialists have migrated to new Personnel Management Advisor (PMA) positions to reflect the cross functional nature of their work, as well as new competencies in dispute resolution, since the PMAs are expected to work toward the resolution of workplace disputes at the lowest possible level. If the dispute is unresolved by the intake PMA, the case is referred to the DRC for either ADR or traditional complaints processing.

#### ***Background/Objective***

In addition to multiple successes with mediation and other interest-based methods of dispute resolution in individual workplace program areas such as EEO and Labor Relations in the past several years, the CNRSW wanted to design an integrated conflict management system that would handle workplace disputes in a comprehensive and coordinated manner. The DRC offers interest-based processes to all employees, whether their dispute arises under Title VII, negotiated grievance procedure, or simple mis-communication. An Advisory Council made up of representatives from the functional areas concerned with workplace disputes establishes DRC protocol and monitors the cadre of collateral duty internal mediators.

#### ***Duration/Current Activity***

The CNRSW DRC has been very successful in resolving workplace disputes and in lowering the number of formal complaints filed. Over 75% of the cases that go into mediation are successfully resolved, including some EEO complaints that had been at various stages of the

formal process for up to two years. Improving workplace relationships and creating a workplace that fosters open communication allows Navy employees to focus on the Department's mission.

### ***Rules Governing the Program***

A certification program for Navy employees who wish to become mediators in the Navy's workplace disputes program has been established. The multi-stage process for certification includes Introductory and Advanced Mediation skills training, intensive evaluation of skills, three successful co-mediations with an experienced mediator, and adherence to SPIDR/AAA/ABA ethical standards for mediators.

### ***Contact***

Mahealani Tolbert, Program Manager, Dispute Resolution Center, Human Resources Office (Code N00CP33), Commander Navy Region Southwest, 937 North Harbor Drive, 6th Floor, San Diego CA 92132-0058; Telephone: (619) 532-2328; FAX: (619) 532-1307; Email: [Tolbert.Lani@cnrsw.navy.mil](mailto:Tolbert.Lani@cnrsw.navy.mil).

## **Navy Human Resources Service Center, Norfolk**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Department of the Navy, Human Resources Office (HRO), Norfolk located in Norfolk, Virginia provides human resources services for approximately 20,300 personnel in the Hampton Roads geographical area of Virginia. The activity established an Alternative Dispute Resolution (ADR) Program in 1998 that uses Mediation, Conciliation, Early Neutral Inquiry, and Settlement Conference processes, with Mediation being the primary ADR process used. An ADR Program Manager coordinates the Program for 172 commands serviced by HRO Norfolk, and a cadre of neutrals, from various personnel disciplines, function in a collateral duty capacity within the Program.

#### ***Background/Objective***

The ADR Program is available to address discrimination issues under Title VII. The goal of the Program is to promote resolution between the parties at the earliest opportunity feasible, by the fastest and least expensive method possible. However, ADR has also been used successfully in advanced EEO complaints. During the first meeting relating to a discriminatory issue, an EEO counselor provides the complainant with an explanation and description of the available ADR processes. Subsequently, the respective command is contacted and provided with an overview of ADR and, if agreed to by both parties, a specific ADR method will be chosen. The Program is presently expanding to encourage early use of ADR for other types of workplace disputes separate from the EEO process.

#### ***Duration/Current Activity***

Besides improving employee morale and satisfaction and management-employee relationships, ADR has reduced processing time and costs associated with informal and

formal complaints. This resulted in cost avoidance of approximately \$720,000 in fiscal year 1999 and \$920,000 for the first two quarters of fiscal year 2000.

### ***Rules Governing the Activity***

The ADR Program follows the guidance provided by the Secretary of the Navy Instruction 5800.13. All four ADR processes supported by the Program are voluntary and impartial; however, each incorporate specific distinctions. Mediation is confidential and, if resolution is reached, it is reduced to writing. If resolution is not reached, the content of the mediation conference is not reported and the EEO file would only state that mediation took place. Conciliation is not confidential. If there is not a formal agreement, the written record includes the strengths and weaknesses of the dispute. Early Neutral Inquiry is generally an oral inquiry wherein the neutral recommends a solution for resolution and provides a written non-binding evaluation of the dispute. A Settlement Conference is the most formal ADR process and is used in cases involving a large degree of documentation.

### ***Contact***

Joyce Guthrie, Alternative Dispute Resolution Program Manager; Human Resources Office, Norfolk; 487 East C Street, Norfolk, Virginia 23511-3997; Telephone: (757) 444-7957; FAX: (757) 444-4327; Email: [guthriej@hronorf.navy.mil](mailto:guthriej@hronorf.navy.mil).

## **Navy Human Resources Service Center, Pacific**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Federal Informal Resolution System Team (FIRST) ADR Program is a global program which is used to resolve day-to-day conflicts, including equal employment opportunity (EEO) complaints, grievances and general communication problems between supervisors and employees or between coworkers. The program is comprised of civilian and military mediators and offers mediation services to Federal agencies throughout the State of Hawaii. Managing the FIRST ADR Program is the Human Resources Service Center, Pacific EEO Director who serves as the FIRST Intake Coordinator. EEO, Labor Relations and Dispute Resolution Specialists may request ADR assistance after it is determined that the issue(s) is appropriate to mediate. Interested employees, supervisors and managers may also contact the Intake Coordinator to request mediation. Their motto is TRY FIRST FIRST!

#### ***Background/Objective***

To assist Federal agencies in Hawaii to be in compliance with the 29 CFR 1614 requirement that agencies establish an ADR program or have access to one, FIRST was recently expanded to include all Federal agencies. This initiative, with the permission of an agency's headquarters, has enabled the smaller DOD and non-DOD agencies to tap FIRST resources rather than bringing mediators from their headquarters to mediate local disputes. This initiative has also enabled FIRST mediators to gain and maintain their mediation skills so that they can pass the Department of Navy's Mediator Certification Program.

### ***Duration/Current Activity***

ADR has been successful in both EEO and day-to-day disputes. In addition to restoring communication and work relationships of the disputants, it has reduced the number of grievances filed and the number of EEO complaints processed.

### ***Rules Governing the Program***

Disputes are co-mediated or solo mediated depending on whether the mediator has successfully been certified by the Department of Navy. Co-mediations are with the Mediation Center of the Pacific. Cases which are not mediated are: criminal conduct issues; issues that involve security breaches; precedent setting issues; issues involving negotiated contracts from bargaining units and precomplaints that concern a matter which has already been decided by the Department of Navy, Equal Employment Opportunity Commission, or a U.S. Court.

### ***Contact***

Cindy Pierson, Human Resources Service Center, Pacific, EEO Department, Code 10, 178 Main Street, Bldg. 499, Honolulu, HI 96818-4048. Telephone: (808) 474-0176 ext 214 or (808) 471-3328 (fax); Email: [cynthia\\_pierson@pac.hroc.navy.mil](mailto:cynthia_pierson@pac.hroc.navy.mil).

## **Navy Human Resources Service Center, East**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Human Resources Service Center (HRSC) East offers Alternative Dispute Resolution (ADR) services to over 33,000 individuals within the Department of Navy. HRSC East has provided neutrals for Mediation, Conciliation, Early Neutral Inquiry, and Settlement Conference sessions.

#### ***Background/Objective***

The HRSC East workplace ADR Program originated with the first conus HRSC in 1997. While under the guidance of William Jackson, Jr., Human Resources Director, and due to the expertise of the HRSC East neutrals, the HRSC East has partnered with other branches within the Department of Defense to provide the services of neutrals for Alternative Dispute Resolution sessions. In addition, the HRSC East is organizing a Shared Neutrals Group, which will enable various organizations (government and non-government) to share neutrals. Because of the HRSC East's demonstrated ability in dispute resolution, they were requested to design and implement an ADR program outside the Department of Navy.

#### ***Duration/Current Activity***

In addition to providing neutral services, HRSC East has participated in innovative approaches to problem solving and implemented training courses for individuals desiring certification as mediators. The process involves four levels of training: Basic Mediation, Advanced Mediation, Screening, and Co-Mediations. To develop individuals into the best neutrals possible and to enhance the training, HRSC East developed the courses to include extensive role-plays and video taping of participants. These processes enable instructors and

participants to critique the role-plays for further improvements. Additionally, HRSC East offers refresher sessions and training designed for specific needs. Their Neutrals have provided advice, guidance and training on ADR program implementation nationwide

**Contact**

Joan Williams, Norfolk Naval Shipyard, Building 17, Portsmouth, Virginia 23709-5000; Telephone: (757) 396-7142; FAX: (757) 396-2499; email: [joan\\_williams@east.hroc.navy.mil](mailto:joan_williams@east.hroc.navy.mil).

## **Navy Human Resources Service Center, Southeast**

### **ADR Technique: Mediation**

***How the ADR System Works***

The Human Resources Service Center, Southeast (HRSC SE) shared neutrals program is the largest in the Department of the Navy with 63 extensively trained Dispute Resolution Specialists (DRSs) providing services to over 30,000 employees in 250 activities in ten states, Puerto Rico, and Cuba. The DRSs are from various clerical, technical, blue-collar, administrative, professional and managerial backgrounds. Under this program ADR can be used for almost any issue in controversy (old or new) including but not limited to general workplace disputes, grievances, unfair labor practices, informal EEO complaints and formal EEO complaints. However, ADR is not used for issues involving sexual assault, other criminal activity, or issues prohibited by law, regulation or policy.

Mediation is the current form of ADR offered to customers in this region with an option to add additional forms as recommended by the ADR advisory group, which consists of HR professionals, legal experts, and union representatives. After the local ADR intake specialist defines the issues, explains all rights and responsibilities and obtains a signed agreement to use ADR from the parties, the HRSC SE assigns a DRS from an outside activity to conduct the ADR session.

***Background/Objective***

All DRSs are required to go through a comprehensive training program, which includes at least 4 tiers of training (Basic Mediation, Advanced Mediation, Screening and Evaluation, and Co-mediators with current professional mediators). The objective of the program is to provide the activities and employees with the best mediators in the business to facilitate fair and mutually acceptable resolutions at the lowest level possible and in the most expeditious manner possible.

***Duration/Current Activity***

The HRSC SE established the ADR program in October 1999. Employees, supervisors and managers began using the program in January 2000 with the first case occurring in February 2000. Since that time, the HRSC SE has provided ADR services for 50 cases. Of those 50 cases, only 27% have gone to the formal stage with 73% being resolved officially or unofficially.

### ***Rules Governing the Program***

The program is governed by Navy policy and a regional ADR instruction. ADR is completely voluntary and may be requested by an employee, supervisor or manager. Employees have the right to continue the formal administrative process if no resolution is reached and employees will remain free from retaliation of any kind.

### ***Contact***

Sarah B. Overstreet, Regional ADR Program Manager or Larry Bruce, ADR Coordinator, Human Resources Service Center, Southeast, 9110 Leonard Kimble Road, Stennis Space Center, MS 39522; Email: [sarah\\_overstreet@se.hroc.navy.mil](mailto:sarah_overstreet@se.hroc.navy.mil); Telephone: (228) 813-1028; or [larry\\_bruce@se.hroc.navy.mil](mailto:larry_bruce@se.hroc.navy.mil); telephone: (228) 813-1035; FAX: (228) 813-1303.

## **Navy Human Resources Service Center, Northwest**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Department of the Navy Human Resources Service Center Northwest (HRSC-NW) in Silverdale, Washington, and the Commander Navy Region Northwest (CNRN) Human Resources Offices (HROs), located at the major Navy activities in this 6-state region, provide consolidated human resources services. This includes an ADR Program that offers training, consultation, and mediation. Mediation may be requested by anyone in the organization, and can be used to address workplace conflicts that are either at the informal or formal stages. Participation is voluntary. ADR Coordinators are located at each major activity. A Regional Coordinator oversees the program.<

#### ***Background/Objective***

When the HRSC-NW and CNRN HROs stood up in 1997 and 1998, a new ADR program was created to provide broad based dispute resolution services to the entire region. In the design of this program, it was of paramount concern that ADR be related to the community in which this Navy region resides and that skills and services already existing in that community not be duplicated. To this end, the ADR Program works with the local Sound Options Group, the Dispute Resolution Center of Kitsap County, and the Seattle Federal Executive Board Intergovernmental Mediation Consortium. To launch the Program, a forty-hour course on Basic Mediation Skills was given to representatives throughout the Region, including labor unions, management, and the human resources community. Interest in becoming certified mediators was solicited from this group and a number of individuals have continued with their training and acquisition of expertise in mediation.

#### ***Duration/Current Activity***

More workplace disputes were mediated at Navy activities in the Region in the first nine months of the Program than in the previous five years. Evaluations by participants have been very positive.

### ***Rules Governing the Activity***

If not otherwise addressed in a negotiated contract, both parties to a formal dispute may mutually agree to suspend time frames while attempting mediation. When necessary, appropriate clearance is obtained through union representatives for bargaining unit members who wish to participate in this process. Mediation sessions are confidential and no records are kept of what happened in the sessions.

### ***Contact***

Mando Morales, Human Resources Service Center Northwest (HRSC-NW), 3230 NW Randall Way, Silverdale, WA 09383-7952: Telephone: (360) 315-8020, email: [Mando\\_Morales@nw.hroc.navy.mil](mailto:Mando_Morales@nw.hroc.navy.mil).

## **Office of Personnel Management**

### **ADR Technique: Peer Review**

#### ***How the ADR System Works***

A Labor Management Committee (LMC) comprised of three union-appointed members and three management-appointed members hears grievances on a variety of topics which have not been resolved after initial review by supervisors and management officials in the bargaining unit involved. After interviewing individuals and reviewing documentation, the LMC issues a written report with its recommendations. When consensus cannot be achieved, recommendations are determined by secret ballot, with the majority position adopted. If both parties accept the recommendation, it is implemented. If either party rejects the committee's recommendation, the grievance may be moved to arbitration. In arbitration, the case is assigned in rotation to one of five arbitrators who have been previously accepted by both the union and management. The arbitrator's decision is normally binding on both parties but may be appealed under limited conditions. This committee also serves as a mechanism to conduct impact and implementation bargaining using interest-based negotiations.

#### ***Background/Objective***

In 1992, the Employee and Labor Relations Division and the American Federation of Government Employees, Local 32, negotiated a collective bargaining agreement which includes an ADR option as part of the grievance procedure. The objective of the program is to minimize the use of third parties to resolve disputes.

#### ***Duration/Current Activity***

Operational since October 1992, the committee has reached a consensus on every case that it has reviewed-never has a secret ballot vote been necessary. Over that period, it has reviewed performance based actions, disciplinary actions, and impact and implementation bargaining cases.

### ***Rules Governing the Activity***

Rules are contained in the June 1992 Collective Bargaining Agreement between the

Employees and Labor Relations Division and the American Federation of Government Employees, Local 32.

**Contact**

Suzanne Gianetti, Team Leader, Employee Relations and Performance Management Team, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415-0001; Telephone: (202) 606-2310, FAX: (202) 606-2996; Email: [smgianne@opm.gov](mailto:smgianne@opm.gov).

## Postal Service

### ADR Technique: Mediation

## REDRESS

***How the ADR System Works***

REDRESS is an EEO mediation program. The acronym stands for Resolve Employee Disputes Reach Equitable Solutions Swiftly. A complainant who contacts an EEO counselor is offered mediation with an approved outside mediator in lieu of counseling. If the complaint does not settle during that process, the complainant may continue through the traditional process.

***Background/Objective***

REDRESS began in 1994 with a pilot project in three Florida cities. It has two objectives: to resolve individual disputes quickly and effectively, by empowering the parties to find their own solutions; and to address underlying issues and improve the workplace climate.

***Duration/Current Activity***

REDRESS is currently available in all 85 Postal Service performance clusters. An evaluation completed with the help of Indiana University has found: the majority of complaints mediated under REDRESS settle, diminishing the number of complaints proceeding to the formal stage; the REDRESS process is significantly faster; supervisors who have been through the mediation process manage workplace conflict more successfully; and employees, union representatives, and supervisors show high and equal satisfaction with all aspects of the program.

***Rules Governing the Activity***

Complaints may not be mediated if there is an active criminal or other Inspection Service investigation, or if an active Office of Workers Compensation Programs (OWCP) file is pending. Prospective mediators must go through a three-part application process, which includes a mandatory training segment and selection criteria. Only mediators on the resulting pre-qualified roster may be used, and they must abide by established Postal Service standards to retain this status.

***Contacts***

Laree Martin, Manager, Equal Employment Opportunity; Email: [lmartin5@email.usps.gov](mailto:lmartin5@email.usps.gov);  
Kevin Hagan, Redress Program; Email: <mailto:khagan@email.usps.gov>. U.S.

Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260-0004; Telephone: (202) 268-3991.

## REDRESS II

### *How the ADR System Works*

REDRESS II is an extension of the Postal Service's REDRESS (Resolve Employment Disputes Reach Equitable Solutions Swiftly) EEO mediation program. REDRESS mediation is offered to complainants in lieu of counseling in the informal complaint process. If a complaint becomes a formal complaint and it is appropriate for ADR, mediation will be offered under REDRESS II.

### *Background/Objective*

REDRESS II began in 2000 as part of an effort by the law department to expand the use of ADR in Equal Employment Opportunity cases whenever appropriate. Its objective is to resolve individual disputes quickly and effectively by empowering the parties to find their own solutions through better understanding and recognition of each other's viewpoints. In turn, it is expected that this will improve the overall workplace climate.

### *Duration/Current Activity*

REDRESS II is currently available through all of the Postal Service's law department and labor relations field offices. Staff attorneys have been schooled in effective mediation advocacy skills and work closely with their clients to address cases in the most effective manner. The goal is to increase the use of mediation so that it is offered in all appropriate cases. This program is ongoing and continues to grow.

### *Rules Governing the Activity*

Complaints may not be mediated if there is an active criminal or other Inspection Service investigation, or if an active Office of Workers Compensation Programs (OWCP) file is pending. Mediators are not employees of the Postal Service and must complete a three-part application process including screening for minimum qualifications, training and skills assessment. Only mediators on the pre-qualified roster are used to mediate cases in conformance with established Postal Service standards.

### *Contacts*

Karen Intrater, Managing Counsel, Employment and Labor Law; United States Postal Service Law Department; 475 L'Enfant Plaza SW, Room 6436, Washington DC 20260-1150; Email: [kintrate@email.usps.gov](mailto:kintrate@email.usps.gov); Telephone: (202) 268-3026

Traci Gann, Acting Chief Counsel, ADR; United States Postal Service Law Department; 475 L'Enfant Plaza SW, Room 6514, Washington DC 20260-1150; Email: [tgann@email.usps.gov](mailto:tgann@email.usps.gov); Telephone: (202) 268-8029

# Smithsonian Institution

## ADR Technique: Ombudsman

### *How the ADR System Works*

Most cases come to the attention of the Ombuds through personal contact by employees from throughout the agency. The Ombuds handles a wide variety of cases that might otherwise be resolved in some formal resolution process. The Ombuds always makes sure that the individuals involved know about these other processes that might be available in a given situation. In some situations, cases are referred to the Ombuds by other offices. For example, the equal employment opportunity office refers individuals when it turns out that they do not have discrimination complaints. If the Ombuds is working with an individual in cases where a discrimination matter is involved, the Ombuds notifies the EEO office of this fact and keeps that office informed of any progress toward resolution (without disclosing the names of individuals involved unless there is specific authorization to do so). If the individual prefers that the Ombuds not attempt resolution of the discrimination matter, the Ombuds refers the individual to the EEO office. Other referrals come from the employee assistance program (EAP). The Ombuds may act as a mediator in resolving a matter. If a matter is covered by the union contract and involves a bargaining unit employee, the Ombuds will notify the union and will discontinue resolution efforts if the union wishes to take on the case.

### *Background/Objective*

The Ombuds program was set up in part in 1977 to provide relief to some of the agency's employees who didn't enjoy the protections that Title 5 Federal employees had and to address the belief that some disputes involved issues that didn't really fit under established procedures. The Ombuds is intended to be a neutral party to whom employees can bring any work-related problem, concern or complaint that could not be resolved through normal channels.

### *Duration/Current Activity*

About 75% of the Ombuds' time is spent on individual employee cases and 5% is spent on cases involving systemic matters. Between 220 and 250 cases per year are processed by the Ombuds.

### *Rules Governing the Activity*

The Ombuds works within the Office of the Under Secretary for Finance and Administration of the agency and operates under The Ombudsman Association code (which requires confidentiality of all proceedings unless there could be physical harm to the individual or others). Information about the program is contained in a brochure.

### *Contact*

Chandra Heilman, Smithsonian Institution, 900 Jefferson Drive, SW, Room 2101, Washington, DC 20560-0425; Telephone: (202) 357-3261; FAX: (202) 786-2528; Email: [heilmanc@ops.si.edu](mailto:heilmanc@ops.si.edu).

# Social Security Administration

## ADR Technique: Multiple Techniques

### *How the ADR System Works*

SSA's ADR program covers a wide range of issues including employment disputes, EEO complaints, partnership disputes and any other issue involving third parties. The program encourages the use of a variety of techniques, including arbitration, conciliation, facilitation, mediation, factfinding, and expedited arbitration. ADR may be used to resolve the entire issue or a portion of the issue. Some examples where ADR is used at SSA include: partnership agreements, grievance procedure, ULP process, negotiations, and EEO matters.

### *Background/Objective*

There are a variety of ADR procedures that have been used to resolve disputes at SSA. SSA plans to allow the parties to a dispute the greatest flexibility possible and therefore, does not prescribe a detailed set of ADR procedures. Deputy Commissioners and Regional Commissioners are permitted to design and implement ADR procedures for their components, either on a pilot or full implementation basis. If a component chooses to participate in the ADR process, the component may determine specific procedures to be used for all disputes. Alternatively, the component may treat each dispute on an ad hoc basis and select whatever type of process appears to be best for a particular dispute. The only limitation on the use of ADR procedures is that both parties agree to use just those procedures. Parties include the employee who files the grievance and the grievance official involved. Note: The declination of the Stage one Official to use ADR procedures does not preclude the use of those procedures by the Stage two Official. Each component pays any expenses incurred by the use of ADR. Office of Labor Management and Employee Relations maintains a list of arbitrators with arbitration/mediation experience whose services may be procured as needed. In addition, SSA's Ombudsman's Office in the Office of Human Resources is available to assist in resolving grievances. There is no charge for its services.

### *Duration/Current Activity*

The ADR program was developed in 1993 and became operational in 1994. SSA has implemented key aspects of ADR in every component. SSA plans to continue and will expand implementation of ADR during the next year.

### *Rules Governing the Activity*

The rules governing ADR are contained in partnership agreements, memorandum of understandings, the agency collective bargaining agreements, and other agency documents.

### *Contact*

Michael J. Hoover, OGC, Social Security Administration, Woodlawn, MD 21235;  
Telephone: (410)966-5737; FAX: (410) 966-6486; Email:<mailto:Michael.Hoover@ssa.gov>.

## Western Program Service Center

### ADR Technique: Multiple Techniques

#### *How the ADR System Works*

WNPSC created the Roundtable Alternative Dispute Resolution Process as a joint union-management partnership adjunct to the Employee Assistance Program (EAP). This ADR process is used as an early intervention to resolve conflicts involving performance, attendance, conduct, tardiness and interpersonal disputes. The Roundtable process may be initiated by an employee, supervisor or union representative. The complaint is reviewed by a "screener" who determines if the complaint fits into the process. The Roundtable is made up of a cadre of managers and bargaining unit employees. The cadre does factfinding, clarifies and defines problems and facilitates agreements on mutual solutions.

#### *Background/Objective*

The program was developed to reduce the number of adverse actions, resolve disputes more quickly and increase staff productivity. ADR helps to resolve workplace issues in a positive manner. At a time when workloads are increasing, staff resources are diminishing, and the number of managers shrinking, the WNPSC found it is necessary to refocus this attention on positive and proactive dispute resolution.

#### *Duration/Current Activity*

The Roundtable process operates under an informal agreement between management and the local union representative. The Roundtable process began in April 1998, and has continued since that date.

#### *Rules Governing the Activity*

This ADR process was developed in consultation with an EAP counselor who assisted in training a cadre of union and management screeners. There is a Roundtable Oversight Committee (another union/management group) charged with monitoring and evaluating the process.

#### *Contacts*

Stephen Breen, Assistant Regional Commissioner, Western Program Service Center, SSA, 1221 Nevin, P.O. Box 4119, Richmond, CA 94804; Telephone: (510) 970-1400; Fax: (510) 970-1415; Email: [sf.arc.peo@ssa.gov](mailto:sf.arc.peo@ssa.gov) or [steve.breen@ssa.gov](mailto:steve.breen@ssa.gov).

## State

### ADR Technique: Ombudsman

#### *How the ADR System Works*

The Ombudsman for Civil Service Employees and a special assistant provide answers to employee questions about career opportunities, training, and other work-related matters. The Ombudsman has an open-door approach to individuals contacting the office and, once

contacted, protects the individual's confidentiality. A primary focus of the Ombudsman's office is systemic issues in the workplace which affect Civil Service employees. The office also provides confidential counseling for employees on matters of concern but does not supplant other dispute processes such as the grievance procedure and the Equal Employment Opportunity discrimination complaint process. The Ombudsman or special assistant occasionally, and with the individual employee's consent, engage with management on the employee's behalf in an effort to resolve the employee issue or concern.

### ***Background/Objective***

In the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (PL-100-204), Congress established the Office of Ombudsman for Civil Service Employees in the Office of the Secretary of State to advise the Secretary and senior management on Civil Service issues, to assure the ability of Civil Service employees to contribute to the agency's mission, and to ensure that the career interests of these employees are adequately represented via a vis the Foreign Service. By law, the Ombudsman must be a career member of the Senior Executive Service and reports directly to the Secretary of State.

### ***Duration/Current Activity***

About 70% of the office's time is spent on policy and systemic issues and about 20% on individual issues and concerns. The Ombudsman is a collateral duty and takes up about 20% of the incumbent's total time. The special assistant is available on a full-time basis. The office does not maintain statistics on individual cases.

### ***Rules Governing the Activity***

The rules governing the office and Ombudsman activities are prescribed in Section 172 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (PL-100-204).

### ***Contact***

Ted A. Borek, Ombudsman for Civil Service Employees, U.S. Department of State, S/CSO, Room 5815A, Washington, DC 20520; Telephone: (202) 647-2182; FAX: (202) 736-7968; Email: [ombudsmacs@state.gov](mailto:ombudsmacs@state.gov).

## **Tennessee Valley Authority**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

ADR has been used successfully in a number of areas including various labor disputes, contract disputes, and litigation cases. In addition, TVA has used mediation to resolve EEO complaints and considers using other ADR procedures when appropriate. An in-house ADR training program is used as an awareness and overview program for TVA personnel.

#### ***Background/Objective***

All TVA offices have been informed that TVA encourages the use of ADR where appropriate and feasible to achieve consensus decisions which resolve disputes fairly and economically. There is no separate budget or staff for ADR activities. ADR activities instead are funded as components of various agency program budgets - primarily that of the Office of the General

Counsel, whose attorneys handle most ADR proceedings as a part of their legal work for TVA. TVA uses both its own attorneys with specialized training in mediation and arbitration as well as outside arbitrators and mediators. ADR is reflected in performance appraisals of attorneys who are responsible for ADR training and implementation.

#### ***Duration/Current Activity***

Types of ADR that have been used in various disputes include mediation, arbitration, partnering, and minitrials. In July 1999, TVA implemented a new ADR pilot program which includes mediation and arbitration for various claims against TVA including claims for personal injuries and property damage. This program has led to the successful resolution of a number of claims since the program was initiated. The pilot program has been made a permanent component of TVA's ADR procedures.

#### ***Rules Governing the Activity***

There are no formal written rules governing when ADR is to be used. It is used on an ad hoc basis when it appears appropriate to do so. ADR is conducted in accordance with mediation rules and procedures used by the Federal courts and established arbitration rules and procedures.

#### ***Contacts***

James E. Fox, Deputy General Counsel, 400 West Summit Hill Drive, Knoxville, TN 37902-1401; Telephone: (865) 632-4151; Email: [jefox@tva.gov](mailto:jefox@tva.gov). William L. Osteen, Jr., Associate General Counsel, 400 West Summit Hill Drive, Knoxville, TN 37902-1401; Telephone: (865) 632-4142; Email: [wlosteen@tva.gov](mailto:wlosteen@tva.gov).

## **Transportation Federal Aviation Administration**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Early Resolution System (ERS) makes the services of trained mediators available to resolve workplace issues raised by non-bargaining unit employees of the Associate Administrator for Research and Acquisitions (ARA). Usage of the ERS does not affect access to other administrative processes, such as the EEO complaint process, and does not waive or extend their time limits for filing. Mediators are agency employees who have been trained to provide services on a collateral-duty basis.

#### ***Background/Objective***

The ERS program is designed to give participants a creative, efficient, and sensible way to resolve workplace issues before they become adversarial conflicts. The goal is to resolve issues quickly (within five working days), promote a quality work environment, reduce the cost of disputes, avoid litigation, and create resolutions that are durable.

### ***Duration/Current Activity***

The ERS was established in March 1998 and has achieved a 94% success rate. Some of the issues raised for mediation include team conflicts, organizational changes, managerial disputes, performance challenges, and harassment. Most issues have been resolved within the target time frame of five working days. The program has a web site under the ARA listings on the FAA home page. All ARA employees have also received a mailing describing the program, and the program manager conducts frequent briefings.

### ***Rules Governing the Activity***

The program is currently available only to non-bargaining unit employees. It is entirely voluntary and confidential.

### ***Contact***

Norma Saafir, ERS Program Manager, ARA-3A, 800 Independence Avenue, SW, Room 1019, Washington, DC 20591; Telephone: (202) 493-4607; FAX: (202) 267-5811; Email: [nsaafir@faa.gov](mailto:nsaafir@faa.gov).

## **Transportation Federal Aviation Administration - Great Lakes Region**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Great Lakes Region of the Federal Aviation Administration (FAA) operates a program that encourages the use of mediation at any level of a dispute. Once the parties agree to mediate, an EEO case is referred from the Civil Rights Office to a full time team of mediators who coordinate the mediation, from pre-mediation conferencing through to evaluation and tracking. For other than EEO related cases, disputes are referred directly to the mediator team. Referrals come from management, unions, special emphasis groups, EAP, and employees. The team then coordinates the entire process from intake through evaluation and tracking. Coordination for all disputes often requires interface with human resource personnel, attorneys, union personnel and agency medical authorities. Mediation may also be used to resolve disputes that arise outside of the agency such as contracting/procurement, real estate and environmental noise abatement.

#### ***Background/Objective***

The ADR program in the Great Lakes Regions of the FAA was initiated in December 1993 to provide employees with the option of electing mediation to resolve Equal Employment Opportunity (EEO) complaints. Due to the program's success, this option became an alternative process for resolving all types of disputes in the workplace. The Conflict and Conciliation Initiative (CCI) team was formed in 1998, and is currently staffed by three full-time trained professional mediators who have an extensive background in organizational consulting and conflict resolution. Their goals are to reduce the EEO case backlog and to expand the use of mediation both internally and externally.

### ***Duration/Current Activity***

Since April 1998, the CCI team has conducted or coordinated 65 mediation in the Great Lakes Region. Co-mediation is used in all mediation conducted, utilizing the CCI team and cadre of nine other collateral duty mediators. The CCI team is also part of the Chicago Federal Executive Board's shared neutrals consortium. In addition to mediating for other federal agencies, the CCI team utilizes and/or co-mediate with other FEB shared neutrals for FAA cases, when appropriate. The co-mediation model provides opportunities for mentoring and allows diversity considerations to be met. It also provides the perspective of two points of view that can pick up on a fuller range of dynamics in the mediation. A combination of the facilitative and transformative mediation models is used.

### ***Rules Governing the Activity***

To ensure a clear understanding and consistency in the ADR program, the CCI team established Standard Operating Procedures (SOPs). These SOPs were drafted, coordinated, finalized and distributed to the Regional Management Team during the first quarter of Fiscal Year 99.

### ***Contact***

Conflict and Conciliation Team (CCI), DOT/FAA Great Lakes Region, 2300 E. Devon Avenue, Des Plaines, IL. 60018; Fax: (847) 294-8413, Jan Lebovitz, Telephone: (847) 294-7375, Babette Hodges, Telephone: (847) 294-7221, Don Saballus, Telephone: (847) 294-7222.

## **Transportation Federal Aviation Administration Northwest Mountain Region**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Civil Rights Staff (CRS), Northwest Mountain Region (ANM), Federal Aviation Administration, has two internal program managers: a Regional ADR Program Manager (PM) and a Discrimination Complaints Program Manager (DCPM). The two managers work together to prevent and resolve EEO conflicts at the earliest stage and lowest level. The DCPM manages the EEO Counselor Program, conducts EEO training for managers and employees, and uses diverse strategies to resolve conflicts between employees, e.g., facilitation, negotiation, conciliation, etc. The ADR PM manages the Mediation Program, conducts EEO Evaluations and Model Work Environment assessments, facilitates "People Skills" Training, and develops written products, e.g., brochures, slide presentations, video scripts, reports, etc.

#### ***Background/Objective***

The ANM CRS established its regional mediation program in FY92 with seven mediators in the regional office and currently has 15 mediators in the RO and in two field locations. Of the total cases mediated between FY92 and FY98, 94 percent were resolved. As the level of complexity increased, the resolution rate (for mediations only) decreased from 94 to 85.4 percent and the CRS found that they had to use more than one ADR technique to resolve a

single complaint. As the CRS expanded its pool of ADR instruments and used these additional tools to prevent complaints, the complaint ratio (total complaints divided by number of employees) decreased to an average of 0.38 percent in FY00. (This compares to an average of 1.08 percent for FAA and an average of 1.01 percent government-wide.)

#### ***Duration/Current Activity***

With the help of its counterparts and the Office of Civil Rights (OCR), ACR-1, Headquarters, the ANM CRS developed two-part 30-minute mediation video. The FAA is currently using the video to provide mediation awareness briefings to its 6,000 managers and 43,000 employees. The video cost a total of \$5,748 to produce and distribute for an average cost of 12 cents per employee.

#### ***Rules Governing the Activity***

In December 1999, the FAA issued the "Equal Employment Opportunity Mediation Program," Order No. 1400.10, which established a national mediation program for the resolution of EEO claims. The order also identified criteria for the selection, training, and certification of mediators. The ANM CRS works closely with its colleagues in Labor Relations, Legal, Medical, Employee Assistance, and others, e.g., Violence in the Work Place Core Team, etc., to prevent and resolve EEO claims.

#### ***Contacts***

Stephanie Raquer, Regional ADR Program Manager, Civil Rights Staff, ANM-9, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056; Telephone (425) 227-2096; FAX: (425) 227-1009. Gregory Pender, Discrimination Complaints Program Manager. Telephone (425) 227-2098. Visit our website at [www.nw.faa.gov/civilrights/home.htm](http://www.nw.faa.gov/civilrights/home.htm)

## **Treasury Bureau Of Engraving and Printing**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The Bureau of Engraving and Printing's Alternative Dispute Resolution Pilot Project became operational on January 3, 1997, as a joint venture with the Joint Labor-Management partnership Council. The program includes a committee comprised of an equal number of members from labor and management. The primary ADR techniques used are mediation, factfinding, and facilitation. The issues that are resolved are mostly those that arise in the informal and formal EEO and labor-management relations complaint processes (of the issues addressed, 38% involved grievances and 29% involved EEO complaints). The mediators are drawn from a cadre of in-house mediators trained specifically for the program and external mediators. In addition, management and labor officials have received mediation and conflict resolution training. The BEP ADR Program was the recipient of the 1999 Office of Personnel Management Director's Award for Outstanding ADR Programs; honorable mention for the 1998 John N. Sturdivant Partnership Award; and the BEP Quality Achievement Award.

### ***Background/Objective***

The purpose of the Alternative Dispute Resolution Program is to resolve conflict at the lowest level within the agency, restore productivity to areas impacted by conflict and improve working relationships among affected parties. The objective is to change the agency's culture in a way that promotes managing conflict promptly and informally.

### ***Duration/Current Activity***

The Alternative Dispute Resolution Pilot Project has helped improve employee morale and satisfaction and has improved management-employee relationships. Where employees have agreed to use the mediation or factfinding processes, 83% of the cases were resolved within approximately 15 days (versus 180 days or more through the traditional complaint process) after the dispute was brought to the project. ADR has reduced processing time and transaction costs associated with processing informal and formal complaints through the administrative, grievance, and EEO processes. Over the past three years, the ADR program has processed more than 120 cases with an estimated cost avoidance of over \$2,500,000. The project has been widely advertised and marketed through brochures, news articles, and through the internal network news.

### ***Rules Governing the Activity***

Department of Treasury Order 107-06; Title 5 of the U.S. Code Section 301; Administrative Dispute Resolution Act of 1996; and, (d) Alternative Dispute Resolution Act of 1998.

### ***Contacts***

Linda Bradford-Washington, Alternative Dispute Resolution Staff, Room 735-5-PD, 14th & C Streets, SW, Washington, DC 20228; Telephone: (202) 874-6046; FAX: (202) 927-1817; Email: [linda.washington@bep.treas.gov](mailto:linda.washington@bep.treas.gov).

## **Treasury Bureau Of the Public Debt**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Public Debt Early Resolution Process was permanently established in October 1998 after the successful completion of a pilot program that started in April 1997. Public Debt has made a conscious decision to always extend the offer of alternative dispute resolution (ADR) to aggrieved person(s) through the equal employment opportunity (EEO) process when the requested resolution is within Public Debt's authority. As situations arise, Public Debt evaluates each on a case-by-case basis to determine whether the use of ADR would be appropriate. Public Debt has an interagency agreement with the Federal Mediation and Conciliation Service for mediation services. Whenever Public Debt needs a mediator, the EEO Office makes arrangements directly with the mediator. Therefore, no additional staff within the EEO Office is required. Public Debt is very supportive of the ADR program and has approved a generous budget to ensure that every individual who expresses interest in ADR will be able to participate in the program.

### ***Background/Objective***

Advantages of the ADR process include: 1) Public Debt gains an additional opportunity to resolve EO complaints at a lower level and more autonomously; 2) the ADR process diminishes formal complaint activity and thus the expenses incurred in connection with the Regional Complaints Centers; and 3) time spent in mediation is significantly less than time spent on formal complaints. These advantages immediately translated into goals and objectives for the ADR program at Public Debt.

### ***Duration/Current Activity***

In 6.3% of the total complaints filed in Fiscal Year 1999, ADR was used to help mediate resolution that resulted in 100% resolution rate with a direct cost savings to the bureau of \$8,594.00. The cost of a mediation session is approximately 8% of the cost to process a complaint through the formal process. For fiscal year 2000 year to date, 9.1% of total documented complaints have requested ADR.

### ***Rules Governing the Activity***

Public Debt Issuance 71-02--Public Debt Early Resolution Process.

### ***Contacts***

Cheryl D. Adams, EEO Officer, Bureau of the Public Debt, 200 Third Street, P.O. Box 1328, Parkersburg, WV 26106; Telephone: (304) 480-6527; FAX: (304) 480-6074; E-mail: [cadams@bpd.treas.gov](mailto:cadams@bpd.treas.gov).

## **Treasury Customs Service**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The United States Customs Service and National Treasury Employees Union (NTEU) implemented an Alternative Dispute Resolution Procedure for bargaining unit employees to process Equal Employment Opportunity (EEO) disputes. The procedure gives the parties 90 days to informally resolve the dispute through mediation. When a bargaining unit employee requests mediation under the negotiated process, the parties have agreed to participate in at least one mediation session. If there is no resolution during the informal process, the employee can then elect to pursue his complaint either through the statutory process or the negotiated ADR process. If the employee elects the negotiated ADR process, the parties have the opportunity to resolve their dispute through mediation. The process also features an optional panel review process at the formal stage. Customs also has implemented an ADR process (mediation) for non-bargaining unit employees at both the informal and formal stages of the EEO complaint process in compliance with 29 C.F.R. 1614. To use the mediation process effectively, Customs has established an internal cadre of mediators. These collateral duty employees, trained and certified through the Justice Center of Atlanta, are located throughout the Customs Service.

### ***Background/Objective***

The objective of the ADR program is to 1) resolve informal EEO disputes prior to filing a formal EEO complaint and 2) improve communication.

### ***Duration/Current Activity***

Both the Negotiated and Statutory ADR process have been in effect since October 1, 1999. Under the current process, over 50 disputes have been mediated with a resolution rate of approximately 65%.

### ***Rules/Governing the Activity***

The ADR process has been incorporated under Article 18 of the Bargaining Agreement between NTEU and Customs. In addition, Customs has issued written implementation guidance for both the negotiated and statutory process.

### ***Contacts***

Alfred Furrs, Equal Employment Specialist, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Room 3.2A, Washington, DC 20229. Telephone:(202) 927-0246; FAX:(202) 927-1476; email: [alfred.e.furrs@customs.treas.gov](mailto:alfred.e.furrs@customs.treas.gov).

## **Treasury Internal Revenue Service**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

In 1993 IRS management and the National Treasure Employees Union (NTEU) jointly established the Conflict Management Initiative and the Center for Conflict Management, and adopted the interest-based approach based on *Getting To Yes* (Fisher, Ury and Patton). The Initiative consists of three strategies: education; leadership and partnering; and conflict management systems.

**Education:** provides interest-based skills, tools and techniques to everyone in the organization. To date, an estimated 35,000 people have been trained.

**Leadership and Partnering:** fosters an interest-based approach within IRS. Beginning with the establishment of the Initiative and the Center, management and NTEU have advocated using the interest-based approach in a variety of settings, including several pilots to demonstrate its impact. External partners include dispute resolution experts and professional associations, as well as taxpayers.

**Conflict Management System:** incorporates the interest-based approach into grievance resolution and negotiation processes as part of an integrated conflict management system for the IRS.

The Initiative has influenced the use of the interest-based approach internally and externally, as well as formally and informally. Examples include Fast Track Mediation for certain tax disputes, negotiation of the Restructuring Agreement, revision of some Internal Revenue

Manual procedures, a change in core competencies to reflect managing conflict, and inclusion of an ADR clause in the union contract.

***Background/Objective***

The Center was established to provide training, consulting and support services, and resource/clearinghouse information. The objective is to change the way the IRS deals with conflict by promoting a culture that manages and resolves conflict at the source, both within the Service and with taxpayers.

***Duration/Current Activity***

Education efforts are now geared toward customizing courses to meet specific business needs. The Center is working with an external contractor to design a conflict management system for the IRS.

***Rules Governing the Activity***

There are no restrictions on the issues organizations and individuals can bring to the Center.

***Contacts***

Deborah Landen, Team Leader, Phone: (404) 338-7028, Fax: (404) 338-7029, E-mail: [Deborah.Landen@m1.irs.gov](mailto:Deborah.Landen@m1.irs.gov); Maxine Hess, Organization Development Consultant, Phone: (404) 338-7027, Fax: (404) 338-7029, E-mail: [Maxine.Hess@m1.irs.gov](mailto:Maxine.Hess@m1.irs.gov); 401 W. Peachtree Street, Room 2031, Atlanta, GA 30308-3539.

## **Treasury**

### **IRS - Kansas City Service Center**

#### **ADR Technique: Mediation**

***How the ADR System Works***

The ADR Program at the Internal Revenue Service's Kansas City Service Center was established as an early intervention process to be used during the initial stages of an informal EEO complaint. The option of selecting ADR is afforded to every complainant upon initiation of an informal complaint. If the complainant selects ADR, an ADR Panel will be convened and meet with the parties within seven to ten days. If settlement is not reached during this meeting, the case continues under the normal EO process. The program utilizes employee neutrals for its ADR Panel, consisting of two management officials and two NTEU representatives. There are six members on the management cadre, with an equal number on the NTEU cadre, and they rotate to serve on the panel. Panel members receive training in mediation and new panel members sit in and observe several ADR sessions prior to serving on a panel y themselves. This program has worked very smoothly with much of the credit due to joint efforts between management and NTEU, whose officials have demonstrated genuine support of the program.

***Background/Objective***

The program was established as a six-month pilot program, and due to its success, continues to the present time. Its objectives are to facilitate resolution of EEO complaints as soon as possible at the source, encourage open communication in a non-threatening environment,

encourage parties to take responsibility for resolving their dispute, allow neutral third parties to assist the parties in identifying the underlying causes of the dispute and create remedies for resolution, improve workplace relationships, and avoid lengthy litigation.

***Duration/Current Activity***

Since its establishment in April 1994, 190 cases have been handled through the ADR program. Reports completed for each informal complaint filed at the service center show approximately a 2:1 benefit in terms of resolution rates, cost of resources, and time spent when comparing the ADR program with traditional counseling.

***Rules Governing the Activity***

The agency has established procedural steps consistent with 29 CFR 1614, roles of participants in the process, and ground rules for the ADR Panel.

***Contact***

Robert M. White, Assistant to the Director for Diversity and Equal Opportunity, Internal Revenue Service, Kansas City Service Center, KCSC Stop 1010MB, Kansas City, MO 64131; Telephone: (816)926-5488; FAX: (816) 926-5932; Email: [robert.m.white@irs.gov](mailto:robert.m.white@irs.gov).

## **Treasury**

### **IRS - North-South Carolina District**

#### **ADR Technique: Mediation**

***How the ADR System Works***

The North-South Carolina District of the IRS has developed a peer mediation process in which a neutral third party, the peer mediator, facilitates problem solving between two or more individuals or groups in resolving their EEO related dispute. This is a voluntary process in which the mediator helps the parties identify their interests, develop options for resolution, and arrive at a jointly acceptable agreement of the parties' own choosing. The peer mediator has no decision making authority and cannot impose a decision. Peer mediators serve all levels within the North-South Carolina District, assist the parties in as informal a manner as possible, and are present only to facilitate the process.

***Background/Objective***

In the early 1990's, the agency requested that offices place an emphasis on reducing the number of formal EEO complaints. The district's EEO staff and EEO Advisory Committee took on the challenge to identify ways to impact the number of formal EEO complaints. The result was the Peer Mediation Process. The process provides: 1) a non-threatening, non-intimidating environment for employees to communicate dispute issues; 2) an environment where the disputing parties can discuss interests and options to reach a mutually satisfactory resolution; 3) an avenue to retain the employee's rights under the statutory complaint process; and 4) a way to maintain or improve employee-employer working relationships.

***Duration/Current Activity***

The peer mediation process was implemented in 1996 when nine employees were selected

from strategic geographic locations in North and South Carolina and provided training in conflict management and facilitation skills. Each year, approximately 20 employees are invited to choose the option of using the Peer Mediation Process to resolve potential complaints. About a third of the contacts choose the process. Written settlement agreements are not always the end result. However, in every case, the process results in improved communication between the employee and the manager, which fosters a more harmonious working relationship.

### ***Rules Governing the Program***

The Peer Mediation Process was developed locally based on several mediation models used by public and private organizations. However, the final product was developed by the North-South Carolina District's EEO staff, the local EEO Advisory Committee with support from the local organizational development specialist, and concurrence by the National Treasury Employee's Union, Chapter 50 and Chapter 55.

### ***Contact***

Gwendolyn L. Pearson, Chief, EEO and Diversity, Internal Revenue Service, North-South Carolina District, 320 Federal Place, Room 229, Greensboro, NC 27401; Telephone: (336) 378-2488, FAX: (336) 378-2086.

## **Treasury U.S. Mint**

### **ADR Technique: Multiple Techniques**

#### ***How the ADR System Works***

The ADR program is currently operated by the U.S. Mint at all of its locations and uses mediation and binding arbitration to provide employees with a "fast track" alternative to resolving most employment disputes and EEO complaints. Within 15 days of a decision or event that raises a dispute, employees submit their requests to an ADR Intake Coordinator who schedules mediation, maintains records, and processes requests for arbitration (if mediation is unsuccessful). For EEO complaints, EEO Counselors offer ADR as an option at the beginning of the pre-complaint stage. For non-EEO discrimination disputes processed through the Mint's ADR Program, the claimant waives their statutory and regulatory rights to pursue their issue in other forums. Waiver of these rights is informed and voluntary on the part of claimant. If mediation is unsuccessful, claimants may either discontinue their grievance or progress to binding arbitration. For EEO complaints, if ADR is selected in the pre-complaint stage, the mediator has up to 90 days to attempt resolution of the issues. If the issues are unresolved, the complainant has the option of (a) selecting binding arbitration under the Mint's ADR Program; or (b) receiving the Notice of Right to File a Formal Discrimination Complaint. Arbitration must be completed within 30 days of the appointment of an arbitrator. The arbitrator has 60 days to issue a final written decision, which is binding on all parties. In disputes alleging discrimination, arbitrators determine only if discrimination occurred; a three-arbitrator panel holds hearings to determine damages.

#### ***Background/Objective***

In January 1998, the U.S. Mint created an ADR pilot project that involves the use of

mediation and binding arbitration to resolve all types of employee disputes, including Equal Employment Opportunity (EEO) complaints. The pilot program was launched at the Denver and Philadelphia Mints. The American Federation of Government Employees (AFGE) local bargaining units at each location were co-creators of the ADR program and continue to participate in the implementation and evaluation of its operation.

#### ***Duration/Current Activity***

Since its inception in 1998, the most significant positive results of the program have been the reduction in EEO complaints. The Mint's ADR Program has substantially reduced the amount of funds the Mint would have otherwise expended in connection with defending work-related disputes under the statutory process. Almost all of the employee disputes have been resolved through mediation. Of the total cases processed through ADR since the program's inception, only 3 have gone forward for arbitration. Evaluations indicate that both management and employees were very satisfied with the ADR process, and both parties felt a fair decision had been reached. Disputes have been appropriately addressed in an early intervention mode and the ADR Program has significantly contributed to a healthier work environment.

#### ***Rules Governing the Activity***

Election of ADR to address disputes is voluntary on the part of the employee. Management participation is mandatory unless compelling circumstances in an unusual case dictate otherwise. Mint employees, who were provided training by the Justice Center of Atlanta and/or the Federal Mediation & Conciliation Service (FMCS) in dispute resolution, conduct the mediation. Staffing for the program at each facility includes collateral duty ADR Intake Coordinators and Mediators. Arbitrators are obtained from external sources (i.e., FMCS) if needed. Each Mint facility is responsible for their respective costs associated with the program. All ADR Intake Coordinators, Mediators, and employees are granted official time to participate in the program. Program management and administration is conducted by an ADR Committee which consists of representatives from the Mint's Office of Chief Counsel, Office of Equal Opportunity, and the Mint Council (AFGE) National President. The ADR Committee is responsible for overall program development, establishment of program policy, and administrative procedures and evaluation.

#### ***Contact***

Connie Brannon, Equal Opportunity Manager, U.S. Mint, 801 9th Street, NW, Washington, D.C. 20220. Telephone: (202) 354-7260; FAX: (202) 756-6150; Email: [cbrannon@usmint.treas.gov](mailto:cbrannon@usmint.treas.gov).

## **Treasury Secret Service**

### **ADR Technique: Ombudsman**

#### ***How the ADR System Works***

It is the policy of the Secret Service that all employees will have access to a work environment in which they are treated fairly and impartially. It is essential that there exists a mutual trust between employees and management along with a trust in the integrity of the communications process within the Secret Service. In an effort to enhance the ability of the

Secret Service to provide such an environment, the position of Ombudsman was established. The Ombudsman provides a mechanism through which employees at all levels may seek answers to questions involving work related activities and programs. Additionally, the Ombudsman provides informal and impartial assistance to employees and managers attempting to resolve work related concerns.

***Background/Objective***

The Ombudsman program is designed to encourage an open atmosphere in which human relationships may be improved. The program encourages employees to raise an employment concern without fear of reprisal. The success of the program depends on the Ombudsman performing his or her duties with utmost discretion by assuring employees that every effort will be made to keep information confidential unless the affected employee agrees that other parties must be informed in order to facilitate resolution. The Ombudsman program is not intended to be a panacea for all concerns and complaints, rather it is intended to keep lines of communication open among all elements of the Secret Service.

***Duration/Current Activity***

All Ombudsmen are appointed by the Director with appointments renewable on a two year basis.

***Rules Governing the Activity***

The following rules are published in the agency's administrative manual. All employees, including supervisors, may contact any of the designated Ombudsmen for assistance. The Ombudsman will listen to the employee's concern, review it, and advise the employee of available options. The Ombudsman, using personal judgment, will facilitate conflict resolution through counseling, mediation, conciliation or other appropriate means. Under most circumstances, an employee with an issue or concern should first discuss the matter with those involved. If the situation is not resolved, the employee should, in most cases, discuss the issue with his or her immediate supervisor. The employee or supervisor may contact an Ombudsman to discuss the pertinent facts and possible resolutions. The Ombudsman does not have decision-making authority in issues brought to his or her attention. The Ombudsman's function is to make suggestions or recommendations to the individuals involved in order to resolve an issue.

***Contact***

Special Agent Paul B. Imbordino, Special Assistant to the Director, Office of the Director, Treasury, U.S. Secret Service, 950 H Street, NW, Washington, DC 20223; Telephone: (202) 406-5555; FAX: (202) 406-5246; Email: [ssombud@uss.treas.gov](mailto:ssombud@uss.treas.gov).

## U.S. Congress Office of Compliance

### **ADR Technique: Mediation**

#### *How the ADR System Works*

The Congressional Accountability Act of 1995 (CAA) applies 11 civil rights, labor, and workplace laws to employees of the legislative branch of the Federal government and establishes dispute resolution procedures and judicial remedies for employees. The CAA established the Office of Compliance as an independent agency to administer the Act. Counseling and mediation are mandatory steps before an employee may file a formal complaint. To begin a proceeding, a covered employee must first request confidential counseling by the Office of Compliance within 180 days of the incident or alleged violation. An employee who still wishes to proceed after counseling must file a request for mediation with the Office of Compliance within 15 days after receiving notification that the counseling period has ended. The Office then appoints a neutral mediator to work with the parties to the dispute to achieve a voluntary resolution of the matter. If the dispute is still unresolved, the employee has the option to file a formal complaint with the Office of Compliance, which will lead to an administrative hearing, or to file suit in Federal district court.

#### *Background/Objective*

Many legislative branch employees previously had protections and access to mediation for discrimination claims and other types of dispute through other laws and rules. The CAA broadens employee protection, and brings the administration of these provisions under a single independent office. The CAA applies to alleged violations occurring on or after January 23, 1996. A significant number of cases are resolved in the counseling and mediation phases.

#### *Rules Governing the Activity*

Additional information about employee coverage, action coverage, and procedure is available on the Office's home page at <http://www.compliance.gov/>, or by calling the numbers given below.

#### *Contact*

Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, SE, Washington, DC 20540-1999; Recorded Information Line: (202) 724-9260. Teresa James; Telephone: (202) 724-9250; TTY: (202) 426-1912; FAX: (202) 426-1913.

## Veterans Affairs

### **ADR Technique: Mediation**

#### *How the ADR System Works*

The Department of Veterans Affairs (VA) has a policy of encouraging the use of ADR, particularly mediation, to resolve workplace conflicts as early as feasible, to the maximum

extent practicable, in an appropriate manner, and at the lowest organizational level. VA does not have one centrally directed ADR program but rather a series of initiatives, policies, and/or programs at both the national and local levels. Many of the 173 VA medical centers have locally designed and implemented mediation programs. A number of VA regional offices have entered into local partnerships with these programs or with other shared neutral programs. The VA's Office of Resolution Management (ORM) has instituted a national mediation program for handling discrimination complaints that looks to local facility programs as a primary source of mediators. In the event that a local facility cannot provide a mediator, ORM has trained mediators that it can make available to the disputants. Other possible mediator sources ORM will consider include other VA mediation programs and inter-agency mediator sharing programs.

### ***Background/Objective***

In February, 2000, the Secretary of Veterans Affairs signed and approved a policy statement committing VA to using ADR for resolving workplace disputes and directing that the option of mediation be made available to all VA employees. Additionally, each VA employee is to be provided sufficient information about mediation and the ADR program at his/her facility so that an informed decision can be made about whether to exercise the mediation option. (See VA Directive 5978, Alternative Dispute Resolution, ([www.va.gov/adr/adrdirectiv.htm](http://www.va.gov/adr/adrdirectiv.htm).) To oversee the implementation of this Directive, VA has drawn from throughout the Department two high-level intra-agency groups: the VA-ADR Steering Committee and the VA-ADR Working Group. The Steering Group is chaired by Guy H. McMichael III, the Chair of VA's Board of Contract Appeals, the Department's Dispute Resolution Specialist. The Working Group is chaired by Pat Sheridan, the Deputy Dispute Resolution Specialist. In addition to these there are three subcommittees that will focus on three important areas: measurements and program evaluation, information technology, and training. The Measurements and Evaluation Subcommittee will make recommendations concerning how to monitor the use of mediation for resolving workplace disputes, what data should be collected and how to identify "best practices" that can be employed throughout the Department. A second Subcommittee will work closely with the Measurements and Evaluation Subcommittee. The Information Technology Subcommittee will make recommendations concerning how best to capture the data identified by the Measurements and Evaluation Subcommittee. The final Subcommittee is the Training Subcommittee which will develop recommendations for ensuring that VA employees know about the mediation option and have access to qualified, trained mediators. VA's Veterans Health Administration (VA's largest employer) has published a Handbook on Alternative Dispute Resolution. This informative handbook contains useful information on mediation and on how to design and implement an effective ADR program at the local level. The handbook has been distributed nation-wide for use by VHA and other VA facilities needing to establish an ADR program. VA's Office of General Counsel has also promulgated a policy directing VA attorneys to consider utilizing ADR techniques, particularly mediation, in every controversy or dispute involving two or more individuals. (See [www.va.gov/adr/ogcdir.htm](http://www.va.gov/adr/ogcdir.htm), GC Directive 8001, Role of General Counsel Attorneys in Alternative Dispute Resolution.) VA's General Counsel also has a cadre of individuals who have received extensive training in ADR who can serve as advisors and trainers as facilities establish their own programs.

### ***Duration/Current Activity***

VA facilities at the local level have developed ADR programs at various stages of development and refinement. Some facilities have well-designed, seasoned programs while others are now just beginning to develop programs. An effort is currently underway to evaluate the existing programs and to assist those facilities still in the developmental stage in bringing those programs on line. All programs will be the result of joint design and implementation by management and its labor partners. Most VA mediators have received in-house training provided by experienced VA mediators or by contract with qualified training organizations.

### ***Rules Governing the Activity***

Participation in the ADR program is voluntary. All types of workplace disputes may be considered for mediation. If no resolution is achieved, the traditional, more formal avenues of redress are still available to the employee (employees are informed of statutory or regulatory time frames that need to be adhered to in order to revert to the traditional processes).

### ***Contact***

Fred Conway or Pat Sheridan, Veterans Affairs Board of Contract Appeals, 810 Vermont Ave., N.W., Washington, D.C. 20420; Telephone (202) 273-6743. FAX: (202) 275-5381.

## **Veterans Affairs Alexandria, Louisiana VA Medical Center**

### **How the ADR System Works**

The VA Medical Center in Alexandria, Louisiana formed a Task Force consisting of Human Resources, Union Officials, and a Quality Management Specialist as the Chairperson. The Task Force gathered information from various Medical Centers within its VISN, acquired documents to use as a guide, and developed a proposal for its Medical Center. Open communication resolved all obstacles in the planning of this proposal. The proposal was presented to the Local Partnership and adopted for approval by the Medical Center Director for implementation.

### ***Background/Objective***

The objective of the program is to provide ADR/Mediation processes that allow individuals to resolve their differences more quickly and less formally in a non-adversarial environment, resulting in better utilization of resources than traditional dispute mechanisms (i.e., Equal Employment Opportunity (EEO) discrimination process, union grievances, etc.). ADR/Mediation is used to resolve all workplace and employment disputes that include supervisor/employee, employee/employee, Healthcare Line/Healthcare Line, patient complaints, and other workplace differences.

### ***Duration/Current Activity***

The program utilizes an ADR Panel, which consists of no more than three members that are appointed by the ADR Council. Employees volunteered to be facility Mediators. These individuals were selected by the local Partnership and approved by the Medical Center

Director. An external source of trained Contract Mediators provided conflict resolution techniques to selected employees. The complainants contact the Coordinator via e-mail or telephone. They are offered either ADR Panel or the Mediation process. An explanation of the program is reviewed with the complainant. If they agree to mediate, the complainant then selects the Mediators. The Coordinator talks with the other party involved and obtains their concurrence to mediate. The Coordinator makes arrangements for the location, time, etc. The ADR/Mediation Process is publicized via posters, flyers, Intranet, New Employee Orientation and word of mouth. Referrals are generated from Employee Assistance Program, EEO Complaints, and Management staff.

### ***Rules Governing the Activity***

"Neutrals" or Mediators are nominated by the ADR Council and its working group and should possess the following qualities: reputation for confidentiality, fairness, patience, honesty, trustworthiness, credibility, respect, empathy, open-mindedness, creativeness, professional demeanor, good listening/communication skills, and the ability to be non-judgmental, unbiased, and remain neutral. They provide a structured process, which enables the parties to exchange information, listen to one another's position and jointly consider various options that are mutually advantageous to both parties. They are not decision-makers. Their role is a collateral duty, therefore no cost is associated with their responsibilities. Once they have been selected to serve as a Mediator, they have five duty days in which to complete the resolution process. Periodic refresher classes are provided throughout the year and a review of the process is provided before each session. Both parties involved and the ADR Panel Members/Mediators complete evaluation forms after each session. The process is timely and allows employees to resolve conflicts in an expeditious manner. The ADR/Mediation process is a faster and more cost effective process than Union Grievances or EEO complaints. The open communication allows for an exchange of ideas and concerns, and therefore leads to a more timely resolution. Employees feel they can express their concerns without the threat of reprisal and the process is faster.

### ***Contact***

Karen James, EEO Program Manager, VA Medical Center-Alexandria, P.O. Box 69004, Alexandria, Louisiana 71306-9004; Telephone (318) 473-0010 ext. 2760;

## **Veterans Affairs Central Texas Veterans Healthcare System**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

Any employee or management official of the Central Texas Veterans Healthcare System (CTVHCS) may request mediation. Requests are submitted to the HRM Mediation Coordinator and may be verbal or written. The Mediation Coordinator will determine if the issue is appropriate for mediation and ascertain if the other party is agreeable to participating in the mediation. If so, the Mediation Coordinator will select the co-mediators from a rotating roster and schedule a place for the mediation. All parties are then notified of the time and place the mediation is to be held. Prior to the actual mediation, the parties view a short video explaining mediation and sign an agreement to participate in the mediation process. If the

parties are able to reach agreement, a written document specifying the terms of the agreement is given to the Mediation Coordinator for review to ensure the agreement is not contrary to regulation or law. If the agreement is technically acceptable, the parties involved and the co-mediators sign the agreement.

### ***Background/Objective***

CTVHCS was struggling with the aftermath of a particularly difficult integration involving three major medical centers and their ancillary clinics. Dissatisfaction was prevalent, complaints and disputes were numerous, and morale was low. Formal complaints were at an all time high. The program was established with the objective of assuring a work environment that is conducive to the delivery of high quality patient care and services through early resolution of disputes. The goal is to resolve disputes before they actually become complaints, as well as expedite the resolution of formal complaints. An added benefit is that the Mediation Program serves as a tool to improve morale by empowering employees and affording them the opportunity to be heard.

### ***Duration/Current Activity***

The mediation program at CTVHCS is a cooperative effort between management and labor through the Partnership Council and began operation in June 1999. The program is widely publicized. A major emphasis has been on pre-complaint mediation. The scope of the program is broad, encompassing both bargaining unit and non-bargaining unit employees and covers almost all types of workplace disputes. The Mediation Coordinator is empowered to determine if a dispute is appropriate for mediation. Since most disputes are between an employee and a management official, co-mediation, with one mediator being from labor and the other from management, is the method most commonly used. When disputes are between management officials, only one mediator from management is used. CTVHCS has a full-time Mediation Coordinator and a cadre of 32 trained mediators who were selected based on nominations from both labor and management. The mediators are representative of the employee population and include bargaining and non-bargaining unit employees; professional, white collar and blue collar workers; members of both genders; and is multicultural. Every effort is made to schedule and bring to closure mediations within 10 days of the request date of the mediation.

### ***Rules Governing the Activity***

The rules governing the mediation program at CTVHCS are set out in a Facility Memorandum available to all employees. The decision to participate is voluntary and both parties must agree to participate. Strict adherence to confidentiality is maintained, and mediators are required to remain neutral. Rules and guidelines are discussed at the beginning of the process and all parties can ask questions or express their concerns. Every effort is made to reach resolution; however, if agreement cannot be reached, other avenues of redress are still available to the employee.

### ***Contact***

Robert Bruce, Mediation Coordinator, Human Resources Management Service (05D), 1901 Veterans Memorial Boulevard, Temple, Texas 76504; Telephone: 254-778-4811 extension 4422; FAX: 254-899-4007; Email: [robert.bruce2@med.va.gov](mailto:robert.bruce2@med.va.gov).

# Veterans Affairs Desert Pacific Healthcare Network

## **ADR Technique: Mediation**

### *How the ADR System Works*

Either party to a dispute may call toll free at 1-877-MEDIATE (877-633-4283) to request Alternative Dispute Resolution (ADR) services at any time. The Director of the Office of Dispute Resolution will assign one ADR Specialist from the Roster of Mediators on a rotating basis. If either party to mediation object to one or both of the mediators assigned to a particular matter, the Office of Dispute Resolution Director assigns another mediator(s) from the Roster. Mediators are not assigned to resolve cases in their own division; however, they are exchanged among the medical facilities and Veterans Centers as part of a shared neutral agreement between facilities. The mediators employ mediation, conciliation, and group facilitation techniques to resolve employment and civil legal matters in dispute. These matters can come from the Equal Employment Opportunity office, Merit System Protection Board appeals, Whistleblower reprisals filed with the Office of Special Counsel, union grievances, medical malpractice claims, among others. The mediators practice two resolution styles: the facilitative and the transformative model. Additional information on the process and procedures can be obtained at [www.visn22.med.va.gov/hot/mediation/default.htm](http://www.visn22.med.va.gov/hot/mediation/default.htm)

### *Background/Objectives*

The Office of Dispute Resolution was established as a means of fostering and developing more effective alternatives to resolving employment and civil legal matters than traditional litigation or other administrative processes used by the Department of Veterans Affairs. ODR was implemented to improve the results gained in resolving disputes and reducing costs and delays associated with investigation and litigation of complaints made by employees and veterans. The organizational cost of counterproductive conflicts and achieving organizational excellence are the primary objectives. The Office of Dispute resolution also provides a means by which employees could enjoy their work more and resolve employment related disputes in an informal positive manner. A final objective is to promote a balanced process for employees, applicants for employment, and their primary customers, veterans.

### *Duration/Current Activities*

The program is staffed with a Director and 60 collateral duty VA employee mediators. Management and union officials choose employees to be trained as mediators using established criteria from its process on "Qualifications for Credentialing Mediators." The chosen mediators undertake 40 hours of basic and 20 hours of advanced mediation training. Continuing mediators are given follow-up training each fiscal year and are provided additional information for pursuing continuing education in the field of ADR.

### *Rules Governing the Activity*

The Office of Dispute Resolution has established and implemented a Uniform ADR Initiative which is in full alignment with the VA Strategic Plan--FY 2001-2006 Objective E-2 (Alternative Dispute Resolution), VA Directive 5978 of February 2000 on ADR, VHA ADR Policy, Equal Employment Opportunity Commission (Regulation 29 C.F.R. §1614)

November 1999, Alternative Dispute Resolution Act of 1998, Administrative Dispute Resolution Act of 1996, and Americans with Disabilities Act of 1990.

**Contact:**

Call 1-877-MEDIATE (877-633-4283)

## **Veterans Affairs Iowa City VA Medical Center**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Iowa City VA Medical Center established an Alternative Dispute Resolution Mediation Program as a format to solve workplace disputes. If a person is interested in mediation they can call one of the ADR Coordinators or any of the on site mediators with questions or to set up a mediation session. The program uses the co-mediator model and the parties involved in the dispute agree on the mediators to conduct the session. The contents of any settlement reached through mediation are confidential; however, if the settlement agreement involves the dismissal of an EEO complaint, the agreement is reviewed by the EEO Program Manager to assure it is compliant with EEO laws and regulations. The agreement is given to the participants only; the ADR Coordinator does not maintain a copy. Program staff determined that by not keeping a copy of the agreement in the coordinator's office the maintenance of confidentiality is increased.

#### ***Background/Objective***

The ADR mediation program at the Iowa City VA Medical Center was established as a tool to assist in the resolution of workplace disputes, grievance cases, and EEO discrimination complaints. The medical center's objectives are to empower the employee in the resolution of the conflict, to create a positive and pleasant work environment, and to retain employees. The medical center strives to reduce the number of conflicts at the facility and to provide a quick and confidential tool to use when conflicts do arise.

#### ***Duration/Current Activity***

The program was developed in 1997 as an alternative format for the resolution of work place disputes, union grievance cases, and EEO cases. Mediation is offered at any stage of the dispute, grievance, or EEO case. The program currently has six fully trained and experienced mediators who function in a collateral role, and two of the six mediators also serve as the coordinators of the program. Due to the success of the program, it has four additional mediators who are awaiting formal training. The program has a "shared neutral" agreement with the Central Iowa Health Care system that consists of nine trained mediators.

#### ***Rules Governing the Activity***

The program is voluntary, confidential, neutral, and impartial. is designed to assist in the resolution of a dispute between the parties. The program conducts mediation sessions with two parties and up to sixteen parties. The disputes may be between employees or employees and their supervisor. Mediators have received extensive training in communication skills and conflict resolution. All mediators are neutral to the parties and the situation being brought to

mediation. The coordinator contacts the parties within seven calendar days with the potential mediators. The parties shall agree on the mediators before the session is to occur. When possible the mediation will be scheduled to proceed within the above-mentioned time frame. Extension of this time period may result due to employee or mediator availability.

#### ***Contact***

Angie J. Martin, ADR Coordinator, mediator, VISN 14 ADR Coordinator, VA Medical Center, Iowa City, Iowa 52246. Telephone: (319) 338-0581 extension 6216; Fax; (319) 339-7085; Email: [Angela.Martin@med.va.gov](mailto:Angela.Martin@med.va.gov).

## **Veterans Affairs Martinsburg VA Medical Center**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

The Martinsburg VA Medical Center established an Alternative Dispute Resolution Mediation Program which operates under an "open door" policy for any disputant who wants to call or walk into the Mediation Office to learn more about the mediation program. Equal Employment Opportunity (EEO) complaints are the primary types of disputes being raised in the program but other workplace disputes are covered by the process. Some union grievances are presently excluded until additional negotiations are accomplished. If a person chooses mediation, the Mediation Program Coordinator, and the parties to the dispute agree on a co-mediator and the process of mediation begins. The terms of any settlement agreement reached through mediation are confidential; however, if the settlement agreement involves any type of compensatory award, the agreement is reviewed by the Medical Center Director.

#### ***Background/Objective***

The ADR Mediation Program at the Martinsburg VA Medical Center was established to reduce the number of disputes between employees and management and to address common work problems, grievances and the EEO discrimination complaint procedure. The Medical Center's objectives are to settle as many complaints as possible without a negative impact on the disputants, agency or staff members involved. Through the program, the agency hopes to improve active listening skills, reduce conflicts between employees and management, and to develop agreements that are mutually acceptable.

#### ***Duration/Current Activity***

The program began following the issuance of the VHA Directive 98-297 on May 8, 1998, which mandated that the EEO Complaint Process be modified to include some form of ADR as a technique to prevent disputes and resolve them at the earliest stage or to settle them prior to formal litigation. The program is currently staffed by one full-time Mediation Program Coordinator, one full-time assistant and eleven collateral duty co-mediators.

#### ***Rules Governing the Activity***

The program is voluntary, confidential, neutral and impartial. It is designed to promote and facilitate the resolution of a dispute between parties. Mediators must be honest and neutral, act in good faith, and diligent with regard to communication skills. Mediators must not have

a vested interest in the terms of the settlement agreement, must show no bias toward individuals or institutions involved in mediation and be reasonably available as requested by mediating parties. The Mediation Office attempts to establish a mediation date within five business days after the intake has been completed.

**Contact**

Denise A. Burton, Certified Mediator, EEO/AEP Program Manager & Mediation Program Coordinator, VA Medical Center, Martinsburg, WV 25401; Telephone: (304) 263-0811 ext. 4059; FAX: (304) 260-4860; Email: [denise.burton@med.va.gov](mailto:denise.burton@med.va.gov).

**Department of Veterans Affairs  
St. Louis, MO  
VA Medical Center**

**ADR Technique: Mediation**

***How the ADR System Works:***

The Program at St. Louis VAMC is well recognized by the staff as a result of several initiatives. All new employees receive the policy and brochure during orientation. Pictures and telephone numbers of the coordinators and mediators are posted in two locations in the medical center. The program was introduced to the staff in 1998 when 1500 employees attended mandatory training. The program is discussed at staff meetings and receives full support from officials of Local 96. The program's policy is to encourage the use of mediation at an early stage of the dispute, although mediation is available at any time during the processing of a dispute. Once the mediator coordinator is notified of a request to mediate, the case is assigned to a mediator and a review of the dispute, VA policy and guidelines is made with the mediator. Mediators are assigned on a rotating basis but are not permitted to mediate a dispute in their own department.

The parties sign an agreement to mediation and identify the issues before beginning to mediate. At the conclusion of the mediation, a settlement agreement is prepared and signed by all involved parties if the matter is resolved. If no resolution is reached, the complainant may proceed with their complaint using applicable processes, i.e., EEO, grievance, etc. The terms of any settlement are confidential.

***Background/Objective:***

The VA Medical Center in St. Louis, Missouri, established an ADR Mediation Program in January 1998 for several reasons. It has long been established in the federal and private workplace that mediating disputes is an efficient, cost saving, and relatively quick method to resolve differences in the work place. Management officials and AFGE Local 96 union officials recognized the need to find quicker and less expensive ways to resolve disputes. Further, the Master Labor agreement between the DVA and AFGE provides for establishment of an ADR program. Thus the parties met over several months and formalized a mediation program. The program is used to resolve all types of disputes. The most common are grievances, discrimination complaints, employee disputes with a fellow employee, and supervisor-employee differences. Obstacles to development of the program were addressed through a joint committee made up of senior management officials and officers from AFGE

Local 96. This joint committee met on a regular basis and discussed the formal guidelines and responsibilities of the program. These discussions lead to the issuance of MCM 00-33 as a matter of policy for the program. The committee addressed each concern that was brought up and resolved it. Both labor and management wanted a program that gave employees an alternative to formal processing of disputes.

Goals and objectives of the program are to promote principles that establish open communication and better working relationships in the work place. An objective is to provide for quick, less adversarial, efficient way to resolve matters. Mediation may be used to resolve all types of disputes except patient abuse issues, violations of law, and matters that are covered by federal or VA regulations.

#### ***Duration/current activity***

The St. Louis VAMC has had approximately 120 mediation cases since the program started. 92% of the cases have been resolved. The Program was started in 1998 after several months of meetings with officials at the medical center. The Program is the result of a joint initiative by management and the union. Mediation training by an outside contractor was provided to the coordinators, mediators, and medical center and union officials. Two coordinators and three mediators were initially appointed to begin processing the cases.

#### ***Rules Governing the Activity***

The mediation process is voluntary and therefore the parties to a dispute are not mandated to use mediation to resolve their differences. Mediation is confidential, informal, private, non-adversarial and non-adjudicative. The mediator is not authorized to make a decision and may not force provide an atmosphere of mutual respect, assist the parties in identifying issues, foster joint problem solving and explore settlement options.

#### ***Contact***

Richard T. Young, Labor Relations Specialist, Director's Office, VA Medical Center, 915 N. Grand Ave. St. Louis, MO 63106. Telephone (314) 289-7651. FAX: (314) 289-6557.

## **Veterans Affairs Salem VA Medical Center**

#### ***How the ADR System Works***

The Salem VA Medical Center has implemented a successful and thriving Alternative Dispute Resolution Program. The program has resulted in successful resolutions to disputes and has changed the atmosphere at the medical center. Staff realize that they have another avenue to resolve disputes that is much more efficient than other alternatives and almost always achieves greater satisfaction for all involved. This is due to the fact that ADR allows an informal way for individuals to resolve disputes with a fellow employee, a manager or a colleague. In mediations, a mediator helps two or more persons explore ways to resolve their differences and reach an agreement that best addresses their interests. Mediations are referred to the collateral duty ADR Coordinator either by phone, e-mail, ORM referrals, EEO Manager referrals, AFGE referrals, manager/supervisor referrals, employee interest, among others. Salem has taken the position that they will mediate anything at any level at any stage of the grievance process and has found that this is the best option. The ADR Coordinator

schedules the mediations and ensures all pertinent staff are at the table and all staff requiring representation are represented accordingly.

### ***Background/Objective***

The ADR Mediation Program at the Salem VAMC was established to reduce the number of disputes between employees and management and to address work place problems that were prevalent. The medical center has made a 100 percent commitment to support the ADR program at this facility and due to that support and partnering effort they have been able to enjoy great success. ADR at Salem has evolved into a realm of changing behaviors, which has been gradually incorporated into a High Performance Development Model for their medical center.

### ***Duration/CurrentActivity***

The ADR Program at the Salem VAMC was started in the fall of 1997. Mediators were trained and mediations began immediately. Resolving differences at the earliest stage or settling them prior to the Step I grievance level was a goal the facility wanted to achieve as quickly as possible. The mediation program began with an ADR Coordinator and three mediators, and today they have ten trained mediators, one of whom has traveled throughout the entire VISN mediating, facilitating, and doing team building workshops that have virtually turned around the working relationships in numerous medical centers. Since implementation of this ADR Program, Salem has held approximately 140 mediations reaching full settlement in all but 11.

### ***Rules Governing the Activity***

The ADR Program at the Salem VAMC is entirely voluntary and does not interfere with the employees' right to turn to other means of resolving their dispute. Both parties to a dispute must agree to go to mediation before the process can take place. Salem has a local ADR policy that governs the ADR practice and a very strict confidentiality and neutrality policy with the mediators which is clearly detailed at the beginning of each mediation. Rules and guidelines are shared at the beginning of each mediation and all parties are given ample time to voice their concerns and be heard. They operate under the premise that all resolutions to disputes basically fall into two areas, communication and respect.

### ***Contact***

Vonda Broom, ADR Coordinator, Mediator VAMC (003-137) 1970 Roanoke Blvd., Salem, VA 24153; Telephone: (540)982-2463 Ext. 2862; Fax: (540) 224-1912; Email: [VDJBroom@msn.com](mailto:VDJBroom@msn.com).

## **VA Healthcare Network Upstate New York**

### **ADR Technique: Mediation**

#### ***How the ADR System Works***

Each of the Network Medical Centers (located at Buffalo/Batavia, Canandaigua, Bath, Syracuse and Albany, NY) maintains a cadre of five to six trained mediators who perform their duties on a collateral basis. Each of the Medical Centers has a Facility Program Coordinator. There is a Network ADR Coordinator that monitors the program on a Network

wide basis. Either party to a dispute may request mediation. Employees are allowed to select any of the local mediators that gives the employee a sense of confidence in the mediator's ability to resolve his or her issues. Every effort is made to assign mediators from the facility where the dispute has arisen. However, disputes do arise that require a heightened level of trust, sensitivity or confidentiality. In these cases employees may request the services of mediators from other Network Medical Centers. To facilitate the assignment of mediators from other facilities two sets of "Sister Institutions" have been established. They are: 1) Albany and Syracuse; 2) Canandaigua, Bath and Buffalo/Batavia. If mediators are requested from another Network facility they are from one of the initiating facility's Sister Institutions. This ADR model allows employees the option to have two mediators at mediation sessions. They have found co-mediation to be advantageous since it often enhances the number and variety of settlement options. This model also increases the trust that participants have in the ADR process. For example, if the dispute involves male and female employees who have issues related to differences in gender, having two mediators, one male and one female, can lead to a heightened level of trust.

### ***Background/Objectives***

The ADR program promotes principles and practices that will facilitate the improvement of communications and working relationships. The ADR process allows parties to resolve their differences quickly, in a less formal environment, in a less adversarial atmosphere, and is a more efficient use of resources than the traditional dispute mechanisms (i.e., litigation).

### ***Duration/Current Activity***

In May and June 2000, mediators were given a 3 1/2 day introductory training course. In September 2000 a 2 1/2 day advanced mediation training course was given. Mediations began in June 2000. Since its inception fourteen months ago Network employees have utilized the ADR Program twenty-nine times. Twenty-two of these mediations have resulted in some form of settlement. They have invited other Federal Agencies to use their mediation services. In August 2001, they conducted their first successful mediation for another Federal Agency, the Customs Service.

### ***Rules Governing the Activity***

ADR is a totally voluntary and confidential process. The program covers the majority of disputes that may occur in the workplace. Certain cases may not be appropriate for mediation. Typically, the most egregious matters, such as patient abuse issues or violations of law, are not suitable for resolution under the mediation process.

### ***Contact***

Douglas Bender, Network ADR Coordinator (05), VA Medical Center, 113 Holland Ave., Albany, NY 12208; 518-433-0929; Email: [Douglas.Bender@med.va.gov](mailto:Douglas.Bender@med.va.gov)

## **Section II: Alternative Dispute Resolution Techniques and Agency Practices**

### **Alternative Discipline Agency Practices**

Alternative discipline (AD) can be characterized as a form of alternative dispute resolution (ADR) that, like more traditional ADR techniques such as mediation, facilitation, etc., can be used effectively to resolve, reduce, or even eliminate workplace disputes that might come from a circumstance where disciplinary action is appropriate. As the term suggests, AD is an alternative to traditional discipline--usually when the traditional penalty would be less than removal.

In a case where traditional discipline might call for a penalty of suspension without pay, under AD, the employee and the agency might agree that a letter in lieu of the suspension is appropriate. Typical features of such an agreement between the employee and agency are: (1) an accurate and full description of the employee's offense; (2) employee admission of wrongdoing; (3) employee promise to modify his or her behavior; (4) notation of the specific traditional disciplinary penalty and the specific alternative discipline; (5) acknowledgment that the agreement will be kept to support possible future disciplinary action based on new offenses and/or acknowledgment of the disposition of the agreement at the end of a specified reckoning period; (6) notification of the possible penalty for a subsequent offense; (7) usually a waiver of appeal and/or grievance rights; (8) a statement that the agreement was voluntarily entered into by the employee and the agency; and (9) signatures of the employee, the supervisor, and any representative. A key aspect of AD is that the employee has a stake in AD in that he or she is actively involved in determining how the workplace problem is resolved.

Benefits of AD include avoidance of the high costs of litigating appeals, grievances, or complaints that often follow traditional discipline--under AD, all issues are resolved at the time the action is taken. The agency retains the services of the employee instead of losing productivity because the employee is under suspension as may be the case under traditional discipline. If the employee is suspended, there may be replacement coverage expenses which might include overtime payments for other employees to do the work of the suspended employee. AD helps avoid lost time and productivity of supervisors, deciding officials, witnesses, and others who may be preparing for and attending hearings or other dispute resolution proceedings if traditional discipline is used. AD also reduces the negative impact on the relationship between a supervisor and a disciplined employee that can occur following traditional discipline. Finally, AD can be a tool to help cope with reductions in agency funding by keeping employees on the job and productive.

The following are summaries of agency AD programs. They are arranged in alphabetical order according to the name of the agency involved.

# **Administrative Office Of The U.S. Courts Alternative Discipline**

## ***How the Alternative Discipline System Works***

Good employee and management relations are critical to the success of a productive work environment at the Administrative Office of the U.S. Courts (AO). The agency actively incorporates its policy that disciplinary actions should be limited to the minimum action necessary to correct unacceptable conduct and to maintain discipline and morale among employees. Alternative discipline agreements may be formed in the following ways: (1) before a proposal to discipline is initiated; (2) in lieu of a proposal to discipline; and (3) after a proposal to discipline has been initiated.

## ***Background Objective***

All AO employees are covered by its alternative discipline agreement policy. Supervisors are strongly encouraged to use alternative discipline agreements in instances where some action other than a formal disciplinary action is likely to effect a positive change in an employee's behavior.

## ***Duration/Current Activity***

AO's alternative discipline program began in 1995. Due to the small number of employees at AO, alternative discipline is not widely used. However, in instances where it has been utilized, it has proven to be successful.

## ***Rules Governing the Activity***

AO's alternative discipline program provides employees with an opportunity to become actively involved with supervisors in creating acceptable agreements to resolve work-related issues. Both the supervisor and employee are responsible for adhering to the terms and conditions in the alternative discipline agreement.

The supervisor and employee enter into a written form agreement specifying the terms and conditions for successful completion. Some of the options from which the parties can choose include community service, forfeiture of leave, leave without pay, participation in the agency's Employee Assistance Program.

Alternative discipline agreements cannot be used in instances that involve egregious activity (criminal conduct or offenses proscribed in a statute), performance-based actions, or where the employee denies having engaged in the identified unacceptable conduct.

## ***Contact***

Scott Daniels, Administrative Office of the U.S. Courts, One Columbus Circle, NE, Suite G-200, Washington, DC 20544; Telephone: (202) 502-1262; FAX: (202) 502-4688.

# Agriculture

## Alternative Discipline

### *How the Alternative Discipline System Works*

Alternative discipline (AD) may be offered to employees as an alternative to traditional discipline provided individual circumstances meet the agency's written policy criteria. AD may be initiated instead of the traditional disciplinary process or at any stage of the traditional process. Individual employees are not entitled to alternative discipline nor can the agency impose AD on its employees since participation is voluntary.

### *Background Objective*

The alternative discipline program is an available option to help carry out the USDA policy that disciplinary action be limited to the minimum action necessary to correct employee misconduct and to maintain discipline. The agency strongly encourages the use of AD as an excellent tool for reducing administrative costs and burdens associated with traditional discipline. It also encourages managers and supervisors to take a more active role in managing their employees, and provides employees an opportunity to demonstrate accountability for their actions and subsequent rehabilitation for productive Government service.

### *Duration/Current Activity*

The program has been in effect since March 10, 1993 and is used by all of the organizations with delegated authority within USDA. Organizations with AD authority include the agency's mission areas, the Chief Information Officer, the General Counsel, and the Inspector General.

### *Rules Governing the Activity*

The agency's policy is provided in USDA Personnel Bulletin No. 751-3 (June 3, 1998) which superseded former Department Personnel Manual 751, Subchapter 4. The criteria for using alternative discipline are: (1) the misconduct justifies a penalty less than removal; (2) the employee admits to the misconduct, accepts responsibility for it, and agrees not to repeat the misconduct; (3) the agency determines the employee is a good candidate for alternative discipline and the alternative discipline acts as a deterrent to other employees; and (4) the employee agrees to waive any and all grievance, appeal, and/or EEO complaint rights with respect to the particular action. These rights are also waived if traditional discipline is imposed because the employee fails to satisfy the terms and conditions of the AD agreement. If the employee fails, the terms and conditions of the AD agreement, the employee is notified in writing that the agreement was violated and the traditional penalty, which is identified in the agreement, would be immediately imposed. AD agreements are signed by the employee, the employee's representative, and the supervisor or other management official and are maintained in the servicing human resources office, not in the OPF.

### *Contact*

Linda Browdy, Manager, Alternative Discipline Program, Office of Human Resources

Management, U.S. Department of Agriculture, Mail Stop 9601, Washington, DC 20250-9601; Telephone: (202) 690-3420; FAX: (202)690-2435; Email: [lbrowdy@usda.gov](mailto:lbrowdy@usda.gov).

## **Air Force**

### **Keesler Air Force Base**

#### **Alternative Discipline**

##### ***How the Alternative Discipline System Works***

The system allows management and the employee who has committed an infraction to agree to an alternative form of corrective action in lieu of traditional discipline. This may include attendance at remedial classes, leave donation, community service, apologies, etc. It is intended to provide rapid resolution to problems, avoid the costs and lost time resulting from use of formal complaint systems, and contribute to a more positive resolution to problems from both management's and the employee's perspective. It is not used in situations where removal is warranted or where legally prescribed penalties apply to the violation.

##### ***Background/Objective***

In March 1995, Headquarters Air Education and Training Command (AETC) developed and distributed a guide entitled, A Guide for Developing an Alternative Discipline Process (ADP). It was distributed to the 13 bases under the Command, with a request for a volunteer to do a formal test of the program. Keesler AFB MS volunteered to conduct the test and, after negotiations with its three local unions, published program guidance in mid-1996.

##### ***Duration/current Activity***

The initial test of the program at Keesler has been well completed. Although it has experienced limited opportunities to use ADP, it has been well received by employees and local unions. Other bases within AETC have also adopted the AETC guide and developed their own programs. Several instances of ADP have taken place, especially in cases where the infraction constitutes a first offense and the employee appears a good candidate for rehabilitation. Feedback on the program has been quite positive at all these bases.

##### ***Rules Governing the Activity***

- Both management and the employee must elect ADP in lieu of traditional discipline.
- The employee must acknowledge the wrongdoing.
- The terms and conditions of alternative discipline are put in writing.
- The agreement is signed by the employee, his/her representative and management.
- The agreement provides for waiver of grievance/appeal rights for the current infraction.
- There is a determination of the "traditional" penalty in each case which will be imposed if the employee fails the terms of alternative discipline and can be used as prior offense for subsequent infractions.

### *Contacts*

Tom May, HQ AETC/DPSP, 1850 - 1st Street, W., Suite 1, Randolph AFB, TX 78150-4308; Telephone: (210)652-7720; FAX: (210) 652-4809; Email: [tom.may@randolph.af.mil](mailto:tom.may@randolph.af.mil).

## **Army Letterkenny Army Depot**

### **Alternative Discipline**

#### *How the Alternative Discipline System Works*

The current system expands and replaces the former Depot Systems Command's (DESCOM) earlier highly successful Elected Voluntary Alternate Depot System Command Discipline (EVADED) and Alternate to Traditional Discipline (ATD) programs. Where EVADED was used only for attendance related offenses, and ATD involved other offenses, ATD now is used for all types of misconduct offenses (attendance, thefts, falsifications, insubordination, etc.) Under ATD, a full range of punitive and nonpunitive penalties can be chosen, including reduced suspensions, financial restitution, community service, donations of leave, or other mutually agreed upon corrective actions. The supervisor, employee, and where appropriate, the employee's designated union representative, must agree upon the penalty imposed. ATD agreements include an admission of fault or wrongdoing, acknowledgment of the penalty being replaced, commitment to improve future conduct, and waiver of grievance and appeal rights. If there is no agreement between employee and agency, the matter reverts to traditional disciplinary methods.

#### *Background/Objective*

The agency began EVADED in 1989 and subsequently ATD in 1991. In 1996, the agency combined the two into the current broad ATD alternative discipline program. The objective of each of the programs has always been to provide managers with a means to address employee misconduct in a manner involving shared responsibility that improves working relationships and enhances the efficiency of the service.

#### *Duration/Current Activity*

Supervisors and managers at Letterkenny Army Depot are pleased with this additional management tool and use ATD agreements frequently. Because of the success of ATD, and EVADED before it, the Department of the Army is encouraging all of their subordinate commands to adopt such programs.

#### *Rules Governing the Activity*

The specific rules governing ATD vary depending upon the depot. Generally, the rules are outlined within a Memorandum of Understanding (MOU) agreed upon by depot management and the local unions. At the Letterkenny Army Depot, the offer of ATD is mandatory when the proposed traditional penalty would be a one-day suspension or greater. ATD is not offered if the proposed penalty would be a reprimand.

#### *Contact*

Ronald Newcomer or Terry Murphy, Letterkenny Army Depot, ATTN: ASAM-LE-RM-H,

Chambersburg, PA 17201-4150; Telephone: (717) 267-9409/9277 respectively; FAX: (717) 267-5621. Tom Locke, President, NFFE Local 1429, Letterkenny Army Depot, Chambersburg, PA 17201-4150; Telephone: (717) 267-5286. Deborah Witherspoon, President, NFFE Local 1442, Letterkenny Army Depot, Chambersburg, PA 17201-4150; Telephone: (717) 267-8677.

## **Defense Logistics Agency**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

The Letters of Discipline Program is available throughout DLA and may be used at the sole discretion of management. When management determines that an employee has committed an offense for which a letter of reprimand or a suspension of 14 calendar days or less is appropriate, a Letter of Discipline may be issued. Such letters require no proposed action letter and are not followed by a decision letter. Letters of discipline are effective upon issuance, and must identify the formal disciplinary action each is taken in lieu of. Employees have the right to formally question a Letter of Discipline using the regular grievance process and must be informed of this right in the letter. The process may be used with both bargaining and non-bargaining unit employees.

#### ***Background/Objective***

This alternative discipline program was initiated by management to reduce processing time and costs associated with effecting disciplinary actions. It is also believed to minimize disruption to mission accomplishment.

#### ***Duration/Current Activity***

The program has been in effect since April 1990. The alternative approach to disciplinary actions has been used by some DLA activities, while others have chosen not to employ this newer method. DLA plans to continue this program as an option for management.

#### ***Rules Governing the Activity***

The Letters of Discipline Program is governed by an attachment to DLA regulations on discipline.

#### ***Contact***

Kathy Kabinier, Personnel Management Specialist, Defense Logistics Agency Headquarters, Labor and Employee Relations Division, 8725 John J. Kingman Road, Fort Belvoir, VA 22060-6221; Telephone: (703) 767-6412; Email: [k\\_kabinier@hq-dla.mil](mailto:k_kabinier@hq-dla.mil).

## **General Accounting Office**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

The agency's alternative discipline system is an ad hoc, informal system. The system typically involves the issuance of an "in lieu of letter," i.e., a letter issued to the employee in

lieu of the traditional disciplinary suspension that might be appropriate in that circumstance. This document is retained in the employee's official personnel folder as a temporary document for up to four years. The agency also has used a "paperless" suspension, i.e., a personnel action (SF-50) was issued documenting a suspension but, in cooperation with the agency's payroll office, money was not actually lost by the employee. The SF-50, however, was retained in the employee's personnel folder as a permanent document just as if the suspension action had not been "paperless." There is no formalized procedure in place for the agency's system.

### ***Background/Objective***

The objective and background of an individual case can be cited to describe the background and objectives of the program generally. In this individual case, the employee had a leave problem, a result of alcoholism. Less severe disciplinary action (i.e., reprimand) had not resulted in correction of the attendance problems. Management and the Employee Relations staff felt something more had to be done to get the employee's attention. Putting the employee on a formal suspension was not perceived as useful to either the employee or the agency. On the other hand, there was a need to document the employee's record in the event of possible future actions. The employee was issued a letter in lieu of being suspended. The employee agreed to the "in lieu of letter" which documented the employee's leave problems. By agreeing to the "in lieu of letter," the employee waived any appeal and grievance rights.

### ***Duration/Current Activity***

The use of alternative discipline at the agency operates strictly on an ad hoc, informal basis as the need arises. Given the relatively small number of adverse actions initiated by the agency, alternative discipline has been used infrequently.

### ***Rules Governing the Activity***

There are no written rules for alternative discipline at the agency.

### ***Contact***

Stephen Schmal, Chief, Employee Relations and Retirement Benefits Branch, Room 1181, General Accounting Office, 441 G Street, NW, Washington, DC 20548; Telephone: (202) 512-8783; FAX: (202) 512-8869; Email: [schmals.pers@gao.gov](mailto:schmals.pers@gao.gov).

## **Health and Human Services Food and Drug Administration**

### **Alternative Discipline**

#### ***How the Alternative Discipline Program Works***

At FDA, managers have the option of offering employees alternative discipline (AD) in lieu of traditional, formal discipline for misconduct. Other than certain minimum standard requirements (see below), there is a great deal of flexibility in the program to ensure that AD agreements are tailored to meet the needs of the agency and the employee. The AD program is viewed as a win-win proposition. Employees experience less hardship (no loss of pay in a suspension and only a temporary record of discipline), and the agency does not lose the employee's services as it would during a period of traditional suspension. It is management's

option to offer AD, and the employee may accept or decline. If AD is declined, traditional discipline is pursued. AD is not an entitlement and is not precedent setting.

### ***Background/Objective***

The program's objective is to provide an additional management tool that may improve communications and interpersonal working relationships, correct behavior, and improve the efficiency of the service. Seeking the employee's agreement to AD provides the employee a more positive and equal role in correcting the problem and enables employees to avoid being subjected to traditional disciplinary action that can result in barriers and resentments detrimental to the accomplishment of the agency's mission and to the employee.

### ***Duration/Current Activity***

FDA has been using AD since approximately 1995 and has used AD in many situations where it was deemed appropriate.

### ***Rules Governing the Activity***

AD agreements must be in writing and be signed by the employee and appropriate management official. Agreements will at least include: a statement that the employee voluntarily elects to enter into the AD agreement in lieu of a specified formal, traditional disciplinary action; a brief description of the misconduct; a statement of the employee's admission to the misconduct and commitment to improving; a statement that, should further misconduct occur during the life of the AD agreement, it will constitute a prior disciplinary record; a statement that there will be no SF-50 implementing the agreement, but that the AD agreement will be maintained in an administrative file (rather than the OPF) for four years; a waiver of all rights to grieve, file a discrimination complaint, or otherwise contest the AD agreement, but with retention of the right to contest any violation of the agreement by management and any future disciplinary action taken against the employee; and an advisement that the employee may take advantage of the services of the Employee Assistance Program.

### ***Contact***

Theresa Foster or Cecilia Boswell, Division of Employee and Labor Management Relations, Office of Human Resources and Management Services, Parklawn Building, Room 9-66, 5600 Fishers Lane, Rockville, MD 20857; Telephone: (301) 827-4180; FAX: (301) 443-0087; Email: [tfoster@oc.fda.gov](mailto:tfoster@oc.fda.gov) or [cboswell@ora.fda.gov](mailto:cboswell@ora.fda.gov).

## **Interior National Park Service**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

The Columbia Cascades Support Office of the National Park Service uses alternative discipline when the misconduct involved would warrant a penalty less than removal or, if mitigated, would be less than removal. It is appropriate in situations when management determines that the alternative discipline has a good probability of preventing further misconduct and the employee admits to the misconduct and agrees not to repeat it. The

employee waives all grievance and appeal rights. Once misconduct warranting disciplinary action occurs, the supervisor, the employee, and (if applicable) the union, may agree to use the alternative discipline process. The alternative discipline may be imposed by having the employee serve only a small fraction of a suspension and holding the remainder in abeyance pending successful completion of the abeyance agreement. The alternative discipline may also be given by preparing an analysis of the misconduct, stating the rules violated, recommending a penalty and preparing an agreement with the employee holding the penalty in abeyance, specifying the terms and conditions of the agreement.

### ***Background/Objective***

The Columbia Cascades Support Office's alternative discipline policy was based on a National Park Service issuance which allows its offices to develop alternative discipline policies at the field level. The purpose is to offer non-traditional discipline which may serve as corrective, rather than punitive, actions.

### ***Duration/Current Activity***

The policy went into effect in January 1994. Before the policy went into effect, it was used in a more informal process. It has not been used often because the types of disciplinary circumstances in the workplace have been of a nature not appropriate for action under the alternative discipline program.

### ***Rules Governing the Activity***

The policy is set forth in a National Park Service manual and a local policy statement approved by the Park Service.

### ***Contact***

Charlotte Munson, Personnel Officer, National Park Service, 909 1st Ave., Seattle, WA 98104-1060; Telephone: (206) 220-4066; FAX: (206) 220-4076; Email: [charlotte\\_munson@nps.gov](mailto:charlotte_munson@nps.gov).

## **NASA**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

Of NASA's ten Centers, Lewis Research Center is the only one with a formal, written alternative discipline policy. The Lewis Center issues letters of discipline in lieu of suspension of up to 14 days, which are retained in the personnel file for two years and carry the same weight as a formal suspension action. Most of the other Centers have experimented with settlement in lieu of formal discipline informally, including preproposal settlements. Headquarters actively encourages the Centers to consider settlement as an option in every disciplinary situation, and to share their experiences with each other. NASA considers their extensive use of Last Chance Agreements to be part of this approach.

#### ***Background/Objective***

The objective of alternative discipline is getting an employee to commit to resolving the problem and becoming productive. In many cases, AD results in corrected behavior, and

where it does not, a foundation is laid for more formal and severe action. In either case, the emphasis is kept on the issues, rather than on procedure.

#### ***Duration/Current Activity***

The Lewis Center has had a formal policy since April 1993. It is more difficult to state a duration for the more informal instances of alternative discipline elsewhere in NASA, but Headquarters has been promoting the approach for over two years.

#### ***Rules Governing the Activity***

The Lewis Center has a formal written policy. There are no "rules" for the use of alternative discipline elsewhere in the agency. The basic principles promoted by Headquarters are:

- Consider alternative approaches in every disciplinary situation.
- Develop agreement as early in the process as possible.
- Work with the EAP any time personal issues may be present.

#### ***Contact***

Hillard Harrison, National Aeronautics and Space Administration - Code FPP, Washington, DC 20546-0001; Telephone: (202) 358-1217; FAX: (202) 358-3039. Lori Pietravoia, Lewis Research Center, Cleveland, OH; Telephone: (216) 433-2506.

## **National Security Agency**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

Traditional discipline is often bureaucratic and time consuming. The employee, aware that disciplinary action has been proposed, remains in the workplace during the processing time, creating a situation that is often negative for the employee, coworkers, and management. Alternative Discipline (AD) is a more constructive means of correcting behavior. AD conveys to the employee that the misconduct must stop, while at the same time demonstrating good will on the part of management. AD is a more effective use of resources, allowing the employee to remain in a duty status for a longer period of time. The punitive approach of traditional discipline is replaced with an opportunity to demonstrate improved behavior through constructive action, i.e., donating leave to the leave bank, giving briefings or writing papers relative to "lessons learned." When implemented properly, AD can be a win/win for all concerned.

#### ***Background/Objective***

Following a successful two-year pilot program, AD was formally implemented at NSA in 1998. The objective is to offer a constructive alternative to the traditional disciplinary process.

#### ***Duration/Current Activity***

NSA has recommended AD increasingly since it was first introduced to NSA in 1996. A primary performance objective for all ER counselors is to consider every case involving a 14-

day suspension or less for AD and to document the reason whenever a case should not be resolved in such a manner.

### ***Rules Governing the Activity***

Rules as outlined in draft Standard Operating Procedure:

- Misconduct must be minor.
- Management agrees to participate.
- Employee freely agrees to participate.
- Employee admits to misconduct.
- Employee waives all due process rights.
- Employee understands AD Agreement is binding.
- Employee knows AD agreement may be cited in future disciplinary action.

### ***Contact***

Robin L. Miller, Employee Relations Services, National Security Agency, 9800 Savage Rd. Suite 6781 Ft. Meade, MD 20755-6781; telephone: (410) 854-6405; Fax (410) 854-6049.

## **Navy Fleet & Industrial Center, San Diego**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

In addressing misconduct, a supervisor first meets with the employee and asks the employee to develop a solution to the workplace problem caused by the employee's misconduct. A letter is developed to outline the proposed solution and the supervisor determines the reckoning period after which the letter is destroyed if the employee's behavior improves. If misconduct continues, step two of the process involves a second meeting which results in a constructive action plan outlining commitments the employee will make to improve. This letter remains in the employee's personnel folder for two years. If additional misconduct occurs, the supervisor meets with the employee to determine why the problem is continuing. After hearing the employee's response, the supervisor drafts a letter notifying the employee that continued misconduct will result in a proposed removal notice. The employee meets with the supervisor and is sent home for the remainder of the day to consider his/her responsibility to make a change or risk removal.

#### ***Background/Objective***

The Human Resources Department began adopting Dr. Edward Deming's philosophy of management and took a look at the employee and labor relations function to determine what could be done more effectively. The conclusion was that the traditional system of discipline created a hostile, confrontational environment for supervisors and employees and rarely resulted in changed behavior. Further, it was costly and inefficient to have employees suspended from the workplace. The agency drew from a program at McDonald-Douglas Corporation and other programs within Navy in developing the constructive discipline process (see also Constructive Discipline program at Naval Surface Warfare Center).

### ***Duration/Current Activity***

The constructive discipline process went into effect in 1988 and has been implemented at many of the activities serviced by the Human Resources Department. The program is considered extremely successful in that real behavioral change has been seen in employees whose supervisors participated in the process. There has been a reduction in formal actions taken and actions appealed to MSPB, and the constructive discipline process has been upheld in terms of meeting the need for progressive management action.

### ***Rules Governing the Activity***

Where the process has been put into place, HR staff provide briefings and training for supervisory personnel. Additionally, supervisors are given sample letters that can be adapted to the particular circumstances of each case. Union representation is allowed at all stages of counseling. The multiple unions representing employees at the facilities were consulted at the time the process was implemented.

### ***Contact***

Lani Tolbert, Human Resources Office, Naval Region, SW, (Code N00CP33), 937 North Harbor Dr., San Diego, CA 92132-5044; Telephone: (619) 532-2328 ; FAX: (619) 532-1307.

## **Navy Naval Surface Warfare Center, Port Hueneme**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

In addressing misconduct, a supervisor first meets with the employee and asks the employee to develop a solution to the workplace problem caused by the employee's misconduct. A letter is developed to outline the proposed solution and the supervisor determines the reckoning period after which the letter is destroyed if the employee's behavior improves. If misconduct continues, step 2 of the process involves a second meeting which results in a constructive action plan outlining commitments the employee will make to improve. This letter remains in the employee's personnel folder for two years. If additional misconduct occurs, the supervisor meets with the employee to determine why the problem is continuing. After hearing the employee's response, the supervisor drafts a letter notifying the employee that continued misconduct will result in a proposed removal notice. The employee meets with the supervisor and is sent home (with pay) for the remainder of the day to consider his/her responsibility to make a change or risk removal.

#### ***Background/Objective***

The goal of the constructive discipline process is to make employees act as their own agent for change and assume responsibility for the consequences of their misconduct. Unlike the traditional discipline process which labels the employee as "bad" and places the supervisor in a parent-like role of dispensing punishment, this process treats all parties as adults and emphasizes the need to resolve the workplace problems created by the employee's misconduct.

### ***Duration/Current Activity***

The program has been in effect since 1989 and has a high success rate in terms of early resolution of misconduct problems. There have only been a handful of instances where the process was taken to the third step of the process. Traditional discipline is still used in cases of egregious misconduct.

### ***Rules Governing the Activity***

When the process was put into place, HR staff provided briefings and training for supervisory personnel. Additionally, supervisors are given sample letters that can be adapted to the particular circumstances of each case. Union representation is allowed at all stages of counseling although practice has shown a low rate of representation requested at the first step. The multiple unions representing employees at the facilities were consulted at the time the process was implemented.

### ***Contact***

Mark Thomas, Labor Relations Specialist, Human Resources Office, Port Hueneme Division, Naval Surface Warfare Center, 4363 Missile Way, Code HR200, Port Hueneme, CA 93043-5007; Telephone: (805) 228-0709; FAX: (805) 228-8421.

## **Postal Service**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

Recognizing the need to maintain an effective workplace while taking appropriate discipline based on misconduct, the United States Postal Service (USPS) began several years ago to issue letters of warning in lieu of suspensions for supervisory employees. This program requires managers to issue a letter of warning when a supervisor's misconduct warrants a suspension of 14 days or less. The warning letter carries the weight of a time-off suspension (as an element of prior discipline should future discipline become necessary) and has the benefit of keeping the employee on duty. Situations involving suspensions of more than 14 days, indefinite suspensions, or suspensions ordered by third parties as a modification to a removal action are exempt from the warning letter program.

#### ***Background/Objective***

This program was developed to provide management with an alternative approach to discipline when misconduct by a supervisor merited a short suspension. The Postal Service recognized the diminished efficiency when a supervisor is away from his or her duties.

#### ***Duration/Current Activity***

The warning letters in lieu of time-off suspension program was piloted for several years in the U.S. Postal Service's New York Metro and Northeast Area Offices (formerly the Northeast Region). An evaluation of the program showed positive results despite some concerns that the warning letters might not be taken seriously by the supervisor being disciplined or that managers might find the letters too easy to issue and abuse the process. Based on the overall success of the pilot, the USPS implemented the program in 1996 on a nationwide basis for all non-bargaining unit employees.

### ***Rules Governing the Activity***

The warning letters are styled after the traditional adverse action notice and a separate appeals process has been established for these actions. The employee may reply orally and/or in writing to a higher-level manager than the individual who issued the letter. That manager will issue a Letter of Decision which may be appealed to the Area Human Resources Manager. The USPS implemented the pilot program and the permanent program in cooperation with the management associations. The program is documented in a Postal Service Management Instruction.

### ***Contact***

Leslie Bayliss, Appeals Review Specialist, 475 L'Enfant Plaza, SW, Room 9431, Washington, DC 20260-4135; Telephone: (202) 268-3797; FAX: (202) 268-3074; Email: [lbayliss@email.usps.gov](mailto:lbayliss@email.usps.gov).

## **U.S. Soldiers' and Airmen's Home**

### **Alternative Discipline**

#### ***How the Alternative Discipline System Works***

When discipline is appropriate for proven misconduct, the Employee and Labor Relations Staff make a case-by-case assessment of the employee's length of service and overall potential for rehabilitation. Based on that assessment, the specialist makes a recommendation to the employing division in those cases where an alternative approach to discipline looks like it would be of value to the organization. When the employing division agrees, the employee is offered the opportunity to enter a written agreement that specifies an alternative to the discipline that would normally be imposed. This alternative may include, for instance, an abeyance agreement which waives or mitigates the selected penalty subject to the employee's satisfaction of certain conditions over a stated period of time. Those conditions will normally include waiver of appeal rights, and some activity to correct the underlying problem. Such activities have included substance abuse treatment, an anger management program, and mediation to resolve interpersonal issues. The EAP is an active participant in helping to define corrective approaches.

#### ***Background/Objective***

A negotiated alternative agreement can often capture the attention of an employee who would otherwise be removed from employment, and focus the employee on correcting the problem. When this occurs, it is a win for both the employee and the organization.

#### ***Duration/Current Activity***

The USSAH began using alternative discipline on a selective basis in 1995. Both specialists had been exposed to alternative corrective methods in other jobs and knew how effective they could be. The two unions are generally supportive of the approach; in one case, it was the union that proposed alternative discipline as a resolution of the misconduct. The alternative approach has been highly successful with most employees who sign agreements, with only two employees being fired because of a breach.

***Rules Governing the Activity***

The union is a participant in negotiation of agreements for bargaining unit employees.

***Contacts***

Sherba Essex, Chief, Employee Management Branch, Soldiers' and Airmen's Home, Personnel - 1200, Washington, DC 20317; Telephone: (202) 722-3213; FAX: (202) 722-3005. Joyce Jones, Employee Assistance Program; Telephone: (202) 722-3425. Tony Malloy, Public Employees Local 572; Telephone: (202) 722-3260.

## Section III: Shared Neutrals Programs

One of the key elements of a typical Federal ADR program is the use of a third party individual or "neutral" to help resolve workplace disputes. Most commonly the neutral will work as a mediator under such programs. Other programs may call on the neutral to work as a facilitator or a factfinder or to work in a combination of these or other roles. In some cases, neutrals may team up and co-mediate disputes. In whatever manner the neutrals are used, their services can be very costly. Costs may be several hundred dollars per day plus expenses.

In order to reduce their costs in pursuing the use of ADR in resolving workplace disputes, Federal agencies often have worked together to share their resources. In some cases, they have developed formal programs for "sharing" neutrals used in ADR applications. A number of collaborative and cooperative efforts were accomplished through local Federal Executive Boards (FEB). [The Guide provides a listing of FEB web sites in Section VI, ADR Web Sites. Some of these sites provide information about standing FEB ADR committees, with some providing very detailed information about their operating shared neutrals programs.]

In this section, the Guide provides summary information about several current shared neutrals programs. Each summary describes how the program works, the background/objective of the program, the duration/current activity of the program (how long it has been operating and its results), the rules governing the program, the member agencies of the program, and the names of individuals who can be contacted for additional information about a particular program.

The basic concept of a shared neutrals program is that agencies "share" employees who are qualified to serve as neutrals. For example, an employee of one agency may act as a mediator for a dispute in a second agency. The second agency, in turn, would provide a similarly-qualified employee to mediate a dispute in the first agency as needed. In each instance, the employer of record would continue to pay the mediator's salary, but the agency receiving the mediator's service would pay other expenses such as travel. This arrangement is typically accomplished by written agreement of the program's participating agencies. While the monetary benefits of using ADR may be judged in terms of costs avoided (early resolution of a disputes avoids costly litigation in formal processes including the courts), the avoidance of "up front costs" such as paying mediators' fees contributes to actual monetary savings once an agency decides to use ADR to resolve the dispute.

## Atlanta Federal Executive Board

### Shared Neutrals

#### *How the Shared Neutrals System Works*

The CDC and ATSDR Alternative Dispute Resolution Office manage the program. They service locations within a 50-mile radius of Atlanta. However, if an agency requests that mediator travel outside of the metro Atlanta area, the requesting agency covers any costs associated with traveling. When an agency identifies the need for an outside mediator, the contact person for that agency notifies the CDC ADR office and a mediator is assigned. The mediator contacts the parties, schedules and coordinates the mediation. During the mediation

the parties have a chance to describe the situation and to provide specific information from their experience and perspective. Using a variety of techniques and skills, the mediator assists the parties in exploring the cause(s) of the dispute, identifying the issues, and assessing alternatives for resolution. The program covers all types of workplace disputes and includes mediation of cases for the Equal Employment Opportunity Office.

### ***Background/Objective***

The program was established to help the Atlanta Federal Community employees in resolving workplace disputes quickly and effectively at minimal cost.

### ***Duration/Current Activity***

The program was initially established in 1996, as a reciprocal arrangement with Federal agencies in Atlanta. A cadre of 20 volunteer federal employees from various agencies in the Atlanta Metropolitan area is trained in mediation and available to conduct mediations. The program has since grown to a cadre of 40 federal employees representative of approximately 20 local federal agencies. It routinely receives requests from various federal agencies having employees located throughout the southeast region of the country. About 95% of the cases are settled with one mediation session of four to six hours. Members of the Shared Neutrals cadre have opportunities to enhance their knowledge and skills by observing mediation in various contexts through a collaborative initiative with a local court ADR program.

### ***Rules Governing the Activity***

The program operates under the direction of the Atlanta CDC/ATSDR ADR Office.

### ***Contact***

Reba Rivera, Director, ADR, CDC/ATSDR, 1600 Clifton Road, ATTN: MS D-67, Atlanta, GA 30333; telephone (404) 371-5917; e-mail [ror5@cdc.gov](mailto:ror5@cdc.gov); fax (404) 371-5923.

## **Chicago Federal Executive Board**

### **Shared Neutrals**

#### ***How the Shared Neutrals System Works***

Agencies wishing to participate must first notify the FEB's Shared Neutrals ADR Program (SNAP) Committee through a formal letter. This letter must identify the agency liaison, the types of cases that the agency wishes to exclude from the program and any other specific requirements of the agency. When all parties within an agency have agreed to utilize the Shared Neutrals ADR Program (SNAP), and have signed the Agreement to Mediate, the Agency Liaison then contacts the SNAP Intake Coordinator, an individual from the SNAP Committee, by calling the toll-free SNAP Hotline (877-886-SNAP). The Intake Coordinator obtains all the necessary information and assigns a primary mediator and a co-mediator. The mediators contact the Agency Liaison to arrange a time and place for mediation. The mediators conduct the mediation and report back to the Intake Coordinator providing information about the type of dispute, whether it was settled, and the amount of time the process took. The program is available for all types of workplace disputes, including those involving external and inter-agency issues. While there is no cost to use the program,

participating agencies have agreed to reimburse the cost of the mediators' travel should that be necessary.

### ***Background/Objective***

The program was established to assist the Federal agencies in the Chicago metropolitan area in resolving workplace disputes by providing an interagency pool of trained mediators. At the same time, it was also formed to provide a cost-savings to agencies by avoiding costly litigation and even more costly private sector consultants. The Chicago FEB developed the program through a series of informal discussions with two groups: those agencies that already had a dispute resolution program in place and those agencies interested in establishing one. These discussions, along with the survey results from the entire Federal community, led to the establishment of the Shared Neutrals ADR Program (SNAP) Committee as a formal committee of the FEB in the latter part of 1998. The SNAP Committee then developed the policy, procedures and details of the program.

### ***Duration/Current Activity***

The program began operations on July 1, 1999 and currently uses 43 trained mediators to provide dispute resolution services in a co-mediation model to over 33 Federal agencies. Approximately 56% of all cases are settled within one mediation session. Feedback from the users has been extremely positive about the program, the mediators and the process.

### ***Rules Governing the Activity***

The program operates under the direction and oversight of the Chicago Federal Executive Board's Shared Neutrals ADR Program (SNAP) Committee. Policy and procedures are outlined in the *SNAP Informational Brochure* and provided in detail in the *Shared Neutrals ADR Program (SNAP) Handbook*.

### ***Program Members***

Current members include the General Services Administration, Federal Aviation Administration, Environmental Protection Agency, Department of Veterans Affairs, Corps of Engineers, Commodity Futures Trading Commission, Department of Energy, Railroad Retirement Board, Defense Logistics Agency, Military Entrance Processing Command, Department of Agriculture, Department of Commerce, Department of Health and Human Services, Department of Labor, Department of the Navy, Customs Service, Federal Emergency Management Agency, National Labor Relations Board, National Weather Service, Office of Personnel Management, Social Security Administration, Immigration and Naturalization Service, Federal Bureau of Prisons, Securities and Exchange Commission, and the Small Business Administration.

### ***Contacts***

Jan Stinson, Executive Director, Chicago Federal Executive Board, 230 South Dearborn, Suite 3816, Chicago, Illinois 60604. Telephone: (312) 353-6790; Fax: (312) 353-3058; Email: [jan.stinson@gsa.gov](mailto:jan.stinson@gsa.gov); SNAP Program web site address: <http://www.chicago.feb.gov/snap.htm>

## Dallas-Ft. Worth Federal Executive Board

### Shared Neutrals

#### *How the Shared Neutrals System Works*

A designated point of contact for the agency obtains a signed agreement to voluntarily mediate from the parties to the dispute. The mediation agreement is passed on to the FEB's mediation coordinator. The coordinator selects two mediators from different agencies and arranges the mediation. The mediators (disputes under the program are co-mediated) conduct the mediation session and provide a written close-out to the coordinator covering such matters as the type of dispute involved, whether it was settled, and how much time the process took to complete. The program covers all types of workplace disputes and includes mediation of Equal Employment Opportunity cases.

#### *Background/Objective*

The program was established to help Dallas-Ft. Worth agencies resolve workplace disputes effectively at minimal cost. In particular, small agencies generally do not have adequate budgets or staff to have internal dispute resolution programs. The initial planning for the program was done by individuals from the Office of Personnel Management, the General Services Administration, the Department of Housing and Urban Development, and the Department of Health and Human Services. They were joined by other agencies to develop a two-year pilot program that was accepted by the Dallas-Ft. Worth FEB. Based on the pilot's success, the program was adopted by the FEB as a permanent program.

#### *Duration/Current Activity*

The program began operations in 1994 and uses over 50 trained mediators to provide dispute resolution services to more than 20 agency program members. About 80% of the cases are settled with one mediation session of four to six hours. It is estimated that each of the mediated cases saves an average of \$10,000.

#### *Rules Governing the Activity*

The program operates under the direction of the Dallas-Ft. Worth FEB/ADR Committee.

#### *Program Members*

U.S. Army Reserves, Joint Reserve Base-Fort Worth; USDA, Animal & Plant Inspections Service; USDA, Natural Resources Conservation Service; Department of Education; Defense Contract Audit Agency; Environmental Protection Agency; Federal Aviation Administration; Federal Highway Administration; General Services Administration; Health and Human Services, Administration for Children & Families; Housing and Urban Development; Internal Revenue Service, Southwest Regional Office; Internal Revenue Service, Dallas District Office; Department of Justice, Community Relations Service; Bureau of Prisons: Federal Medical Center--Carswell, Federal Medical Center--Fort Worth, Federal Medical Center--Seagoville; Office of Personnel Management; Office of Thrift Supervision; Small Business Administration--Disaster Relief; Department of Treasury, Comptroller of the Currency; VA Medical Center--Dallas; and VA Outpatient Clinic--Fort Worth.

### **Contact**

Gladean R. Butler, Executive Director, Dallas-Ft. Worth Federal Executive Board, 4300 Amon Carter Blvd. #108, Ft. Worth, TX 76155; Telephone: (817) 684-5370; FAX: (817) 684-5375; Email: [gladean.butler@sba.gov](mailto:gladean.butler@sba.gov); Consortium web site address: [www.epa.gov/earth1r6/6md/feb/adr.htm](http://www.epa.gov/earth1r6/6md/feb/adr.htm).

## **Denver Federal Executive Board DFEB-ADR Consortium**

### **Shared Neutrals**

#### ***How the Shared Neutrals System Works***

The Consortium uses existing talent among Federal agencies in a manner that eliminates the need for other more costly formal administrative processes and litigation. The program is a voluntary process that reinforces confidentiality and empowers employees to resolve their own disputes with the services of neutral mediators from agencies outside of the disputants' own agency at no direct cost. Participating agencies have agreed to accept the cost of travel and salary of the mediators in exchange for the services of the consortium. The use of the co-mediation model has created a system and process by which the talents of more experienced mediators in the consortium have acted as mentors and coaches for other mediators who may have only related experience in addition to the training. The program's Mediator Profile forms are used to match skills and backgrounds to create mediation teams that are more effective for each type of dispute. The parties in conflict describe the nature of the dispute using the program's Mediation Initiation Document. Mediators then use the document to plan strategies to narrow the issues and define the interests of the parties. The program received the Hammer Award in 1997.

#### ***Background/Objective***

In 1995, the DFEB/EEO Committee proposed the program to executive members of the DFEB as a cost-effective means of resolving disagreements and avoiding litigation. The Committee has served as the sponsor of this interagency resource sharing project. The objective of the program is to realize cost savings by drawing on the talent and potential of a diverse Federal workforce and using its skills and experience in resolving disputes within the workplace. The program is intended to resolve disputes, often arising as a result of affirmative employment and diversity issues, in a manner that removes barriers and restores working relationships among all employees.

#### ***Duration/Current Activity***

The consortium began operations in October of 1996 and currently uses thirty volunteer mediators who were certified through training in a co-mediation model. Surveys used in the program indicate positive attitudes among the users toward the mediators and the mediation process with relationships restored in each case. Program evaluation results including feedback from both mediators and participants is maintained in an automated database. The average amount of time spent in mediation is four to eight hours at an average cost of \$614.39, including administrative time, mediator salaries, and travel costs. Based on a cost

analysis completed by the consortium, the cost-savings per mediation case is conservatively estimated at \$4,885.61.

In January 2000, the DFEB Interagency ADR Consortium began a partnership with the Equal Employment Opportunity Commission (EEOC) Denver/Metro area. The partnership is a win-win situation for both the DFEB Interagency ADR Consortium and the EEOC. The co-mediators have gained more hands-on experience and the EEOC has witnessed a significant number of cases resolved from their backlog. In the first four months of this partnership, the DFEB Interagency ADR Consortium assisted with more than 125 cases of which 46% were settled.

### ***Rules Governing the Activity***

The operation of the consortium is defined in a comprehensive document developed by the EEO/ADR Committee that outlines roles, responsibilities, procedures, and program evaluation.

### ***Program Members***

Colorado National Guard; National Oceanic and Atmospheric Administration; National Institute of Standards; Health and Human Services; Food and Drug Administration; Department of Energy; Department of Labor; Defense Finance and Accounting; Western Area Power Administration; Department of Agriculture; Minerals Management Service; Environmental Protection Agency; Peace Corps; Internal Revenue Service; Federal Labor Relations Authority; Department of the Interior; and Department of Veterans Affairs.

### ***Contact***

Charles Marquez, Consortium Coordinator; P.O. Box 281213 - Mail Code AO300, Lakewood, CO 80228-82; Telephone: (720) 962-7040; FAX: (720) 962-7041; Email: [marquez@wapa.gov](mailto:marquez@wapa.gov); Consortium web site address: [www.dfef.mms.gov/mediation.htm](http://www.dfef.mms.gov/mediation.htm).

## **Greater Los Angeles Federal Executive Board**

### **Shared Neutrals**

#### ***How the Shared Neutrals System Works***

Each participating Federal agency appoints an Agency Coordinator, often the EEO or Labor Relations Manager, to work with the SMART (Shared MediAtoR Team) Coordinator, who works for the Greater Los Angeles Federal Executive Board (FEB). When a dispute arises, the Agency Coordinator completes the *Request and Intake Form* and faxes or e-mails it to the SMART Coordinator. The SMART Coordinator identifies an appropriate co-mediation team from other agencies from a pool of trained mediators, confirms their availability and provides them with the Agency Coordinator's contact information for setting up the mediation. *The Consent to Mediation Form* is signed by the Parties, Representatives, Agency Coordinator, and Mediators before the mediation. If agreement is reached, the *Settlement Agreement* is used. At the conclusion of the mediation, the co-mediation team provides the parties with the required *Confidential Customer Feedback Form* and completes the *Confidential Feedback From Mediator Form*. The Agency Coordinator completes the *Confidential Feedback From*

*Agency Coordinator Form.* The SMART Coordinator receives all the forms, which are kept strictly confidential. SMART is available for all types of internal workplace disputes at any stage, including EEO complaints and grievances. There is no cost to the using agency except mediator travel expenses, if any. SMART covers the southern half of California, with occasional southern Nevada and Arizona cases.

### ***Background/Objective***

The primary SMART goal is to help parties resolve workplace disputes economically and expeditiously to improve workforce communication, morale, and relationships. Using SMART trained mediators, the parties avoid costly private-sector mediators and expensive and time-consuming litigation. A secondary objective is to develop the professional expertise of the SMART mediators as a valuable resource for Federal agencies.

### ***Duration/Current Activity***

The formal SMART program, started in 2001, was preceded by a successful informal shared neutrals effort begun around 1995. SMART currently has 20 volunteer Federal trained mediators available to resolve cases in one day or less, using co-mediation in any requesting agency outside their own. Using agencies typically pay only one day's local mileage and parking for the co-mediators, compared to the going local rate of about \$5,000 a day for one private-sector mediator and the average cost of a formal EEO complaint that does not go to court, \$16,372.

### ***Rules Governing the Activity***

The *SMART Handbook and Forms Packet*, which explain the program and procedures, are available as hard copies or at the FEB web site, [www.losangeles.feb.gov](http://www.losangeles.feb.gov). Completion of feedback forms is required by all parties, mediators and coordinators for program assessment and improvement. The FEB operates the program using an experienced Federal manager on a long-term detail as the SMART Coordinator.

### ***Program Members***

Any Federal agency within the FEB territory may use SMART on an ad hoc basis. State and local government agencies may also apply.

### ***Contact***

Andrea Winkler, SMART Coordinator, Greater Los Angeles Federal Executive Board, 300 North Los Angeles St., MS 7000, Los Angeles, CA 90012; Telephone: Dial 800 735 2922 (CA Relay Service) and Request 213 576 3091 (TTY); Fax 213 576 3092; E-mail [andrea.winkler@irs.gov](mailto:andrea.winkler@irs.gov); web site [www.losangeles.feb.gov](http://www.losangeles.feb.gov).

## **Honolulu-Pacific Federal Executive Board**

### **Shared Neutrals**

#### ***How the Shared Neutrals System Works***

Federal agencies in Hawaii have access to the Federal Informal Resolution System Team (FIRST) ADR program which is managed by the Human Resources Service Center, Pacific EEO Department. FIRST is comprised of trained civilian and military mediators from various

Federal agencies in Hawaii. The program covers EEO complaints, grievances and any other work-related disputes that may be resolved through mediation. Anyone may refer disputes to FIRST by calling the intake coordinator. A written request for mediation is only required if the disputes involve discrimination complaints or grievances.

### ***Background/Objective***

To assist Federal agencies in Hawaii to be in compliance with the 29 CFR 1614 requirement that agencies establish an ADR program or have access to one, FIRST was expanded to include all Federal agencies. This initiative, with the permission of an agency's headquarters, has enabled the smaller DOD and non-DOD agencies to tap FIRST resources rather than bringing mediators from their headquarters to mediate local disputes. This initiative has also enabled FIRST mediators to gain and maintain their mediation skills so that they can pass the Department of Navy's Mediator Certification Program.

### ***Rules Governing the Activity***

The program operates under the leadership of the Navy HRSC Equal Employment Opportunity Director. Neutrals are nominated by their supervisor to attend training and must successfully complete the Navy's Mediation Certification program or have documented experience as a mediator. Each activity is responsible for funding its mediator's formal training program and must allow the mediator to mediate, at a minimum, two disputes per year and attend all of the training required by the Department of Navy for certification. Disputes are co-mediated or solo mediated depending on whether the mediator has successfully been certified by the Department of Navy. Co-mediations are with the Mediation Center of the Pacific.

### ***Program Members***

Mediation services are FREE and available to all Federal agencies in Hawaii.

### ***Contact***

Cindy Pierson, Human Resources Service Center, Pacific, EEO Department, Code 10, 178 Main Street, Bldg. 499, Honolulu, HI 96818-4048. Telephone: (808) 474-0176 ext 214 or (808) 471-3328 (fax); Email: [ynthia\\_pierson@pac.hroc.navy.mil](mailto:ynthia_pierson@pac.hroc.navy.mil).

## **Oklahoma Federal Executive Board**

### **Shared Neutrals**

#### ***How the Shared Neutrals System Works***

office. FEB staff contacts mediators (in most cases, the program uses co-mediators) with the names of the parties, telephone numbers, and other pertinent information. If there is diversity (gender, race, union/management) in the parties requesting services, the program makes an effort to reflect the same diversity in the mediators assigned. Both management officials and union representatives serve as mediators. The mediators contact the parties to set up a date for the mediation session. The program may be used at any step of an agency's dispute process. The program does not cover cases where there are willful or criminal violations of law.

### ***Background/Objective***

Interagency mediation services were identified as an objective by the Oklahoma FEB's Executive Policy Council under the major goal of "reducing costs and improving efficiencies." The goal of the program is to make mediation services available from outside the requesting agency with no fee in order to resolve disputes at the earliest possible date, increase the quality of communication within the workforce, maintain a friendly and productive work environment, and reduce the cost and time involved with formal processes.

### ***Duration/Current Activity***

The program was implemented in April 1998. During its first 12 months of operation, it received requests for assistance in 60 cases, with 47 mediated. Of the mediated cases, 36 were resolved for an estimated savings of approximately \$1,500,000 (costs avoided). In making this calculation, expected monetary costs for each stage of the discrimination complaint process were assigned using information from various sources of historical data and prior analysis. The resolution rate for mediated cases was 76%. The program has 45 mediators available for use.

### ***Rules Governing the Activity***

The operation of the program is controlled by the Oklahoma FEB and described in a guidebook available in hardcopy or on the FEB's web site. Mediators are trained in partnership with the State Supreme Court of Oklahoma, Oklahoma City VA Medical Center (VAMC), and the Equal Employment Opportunity Commission (EEOC).

### ***Program Members***

Equal Employment Opportunity Commission, Oklahoma City; Veterans Administration Medical Center, Oklahoma City; Agriculture, Natural Resources Conservation Services, Stillwater; Air Force, Tinker AFB; Interior, Bureau of Land Management, Moore and Tulsa; Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center in Oklahoma City and Aviation Systems Standards; Department of Treasury, Internal Revenue Service, Oklahoma City; Department of Veterans Affairs, Medical Center in Oklahoma City and Regional Office in Muskogee; United States Postal Service, Norman and Oklahoma City, and other field offices and activities of the Federal Government in the Oklahoma area.

### ***Contact***

LeAnn Jenkins, Director, Oklahoma Federal Executive Board, 215 Dean A. McGee, STE 320, Oklahoma City, OK 73102-3422; Telephone: (405) 231-4167; Consortium web site: [www.mmac.jccbi.gov/feb-okc/shared%20neutrals.html](http://www.mmac.jccbi.gov/feb-okc/shared%20neutrals.html).

## **Oregon Federal Executive Board**

### **How the Shared Neutrals System Works**

Shared Neutrals in the Pacific Northwest Region currently has 27 participating agencies (federal, state, city and county). Agencies wishing to participate must notify the Shared

Neutrals Program Coordinator through a formal letter. This letter must identify the agency liaison, what kinds of cases they will accept, in what way the ir agency will participate in Shared Neutrals (i.e., trained neutrals, meeting spaces, etc.), travel and reimbursement policy and any other specific requirements of that agency. The program is available for all types of workplace disputes, within the guide lines of each agency. While there is no cost to use this program, participating agencies usually agree to reimburse the cost of the mediators' travel, when needed.

Each case comes to the SN Program Coordinator through the Agency Liaison, who initially screens whether the case is appropriate for mediation. The Program Coordinator collects party information, sends out a letter and sample Consent to Mediate form to the parties, and assigns a mediation team consisting of primary and co-mediator. Using a Mediator Checklist, the mediators do case development and arrange a time and place for the mediation. At the mediation, all participants must sign the Consent to Mediate form, which is sent to the Program files at close of the mediation, along with the mediator paperwork, party evaluations and co-mediator critiques. All documents are kept strictly confidential.

### ***Background/Objective***

The Oregon Federal Executive Board (OFEB) adopted the Shared Neutrals Program as a pilot in November 1996, following a model of similar programs. The Program was formally adopted in November 1997. This program is designed to serve three objectives:

1. Provide agencies with low cost and flexible access to sophisticated dispute resolution services
2. Provide disputing individuals with accessible , timely and confidential neutral (mediation) services
3. To support a diverse cadre of trained and experienced neutrals who mentor less-experienced neutrals from other agencies on a collateral duty basis.

### ***Duration/Current Activity***

The Program has been in official operation since November 1997, and currently uses 40 trained mediators to provide dispute resolution services in a co-mediation model to 27 federal, state, city and county agencies. Of the cases that go to session, approximately 72% are considered successful. User feedback has been very positive about the program, the mediators and the process.

### ***Rules Governing the Activity***

The program operates under the direction and oversight of the Shared Neutrals Subcommittee. The Subcommittee consists of 12 members, including a Chair and Co-chair. Policy and procedures are provided in detail in the Shared Neutrals Program Guide, available on-line at the web site below.

### ***Program Members***

As of September 2001, current members include:

- **FEDERAL**
  - Albany Research Center, Department of Energy

- Army Corps of Engineers, Portland District
- Bonneville Power Administration
- Bureau of Indian Affairs, NW Region
- Bureau of Land Management, Oregon State Office
- Chemawa Indian School, Bureau of Indian Affairs
- Environmental Protection Agency
- Equal Employment Opportunity Commission (Seattle, WA)
- Indian Health Services, Portland Area
- Internal Revenue Service, Pacific Northwest District
- Small Business Administration
- US Attorney, District of Oregon
- US Customs, Department of the Treasury
- USDA - National Agriculture Statistics Services OR SSO
- US Forest Service, Region 6 (Oregon & Washington) & Pacific
- Northwest Research Station
- Department of Veterans Affairs - Medical Center (Portland)
- **STATE**
  - Centennial School District, Portland;
  - Dept. of Corrections, Human Resources, SW Region South (Vancouver, WA);
  - Dept. of Social Health Services/, Division of Child Support, Vancouver, WA; and Oregon Military Department.
- **LOCAL**
  - City of Beaverton; City of Gresham;
  - City of Portland; City of Vancouver;
  - City of Wilsonville;
  - Clark County, Washington; and
  - Multnomah County, Oregon.

***Contacts***

Julie Wells, Subcommittee Chair, US Forest Service, PO Box 3623, Portland OR 97208, 503-808-2609, [jwells@fs.fed.us](mailto:jwells@fs.fed.us)

Karin Waller, Program Coordinator, OFEB, 1220 SW 3rd Ave., Ste.1776, Portland OR 97204-2823, 503-230-3536, [ofeb@pcez.com](mailto:ofeb@pcez.com)

*Shared Neutrals web site:*

[www.oregon.feb.gov/SharedNeutrals.htm](http://www.oregon.feb.gov/SharedNeutrals.htm)

## **Pittsburgh Federal Executive Board**

### **Shared Neutrals**

#### ***How the Shared Neutrals System Works***

Each participating agency names one person as a Mediation Contact (MC). Within an agency, disputants may individually contact the MC who, in turn, calls or sends a fax to the FEB/ADR coordinator if services are needed. The coordinator contacts the disputants, the mediator(s), and the agency MC to set up a time and place for mediation. After the mediation, the process is evaluated by the participants. The program covers all types of internal personnel disputes including agency grievances, informal disputes between employees and groups of employees, and Equal Employment Opportunity complaints. The program can also be used for external disputes with agencies' customers, clients, or other Federal agencies.

#### ***Background/Objective***

The Pittsburgh FEB began the developmental process by holding information seminars which resulted in the formation of the FEB/ADR Committee. The Committee included representatives from both labor and management and devised the consortium program. The goals of the program were to promote the use of ADR by Federal agencies within the Pittsburgh FEB and to share resources by building an interagency cadre of skilled, professional mediators. In partnership with the Federal Mediation and Conciliation Service, 22 mediators were trained in the first class in 1995.

#### ***Duration/Current Activity***

The program has been operating since 1995. The average mediation takes eight hours with about 80% of the cases being settled. A majority of the cases involve EEO matters. The FEB is currently a partner with the Pittsburgh ADR Business Alliance and is helping promote ADR in the private sector.

#### ***Rules Governing the Activity***

The policy and procedures for the program are contained in a booklet, *Interagency Alternative Dispute Resolution Consortium*, developed by the Pittsburgh FEB/ADR Committee and available in hardcopy or on the FEB's web site. The Committee maintains oversight of the program.

#### ***Program Members***

Federal agencies within the Pittsburgh Federal Executive Board.

#### ***Contact***

George P. Buck, Executive Director, Pittsburgh Federal Executive Board, 406 Wm. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222; Telephone: (412) 395-6607; FAX: (412) 395-4402; Email: gpb920@aol.com; Consortium web site address: [www.pittsburgh.feb.gov/pitadr.htm](http://www.pittsburgh.feb.gov/pitadr.htm).

# Portland Federal Executive Board

## Shared Neutrals

### *How the Shared Neutrals System Works*

Each participating agency notifies the FEB ADR Subcommittee through a formal letter that it intends to participate in the program. This letter also identifies an agency liaison, the types of cases it wishes to exclude from the program, the person within the agency who may authorize mediation, and other specific information. Mediators from the program roster may mediate anywhere but the requesting agency is responsible for any travel costs involved. The program focuses on internal agency disputes but is also available for external and inter-agency mediations on a wide range of issues including contracting, environmental, etc. Neutrals are typically obtained by agency liaisons working with the program intake person (a member of the ADR Subcommittee).

### *Background/Objective*

The Portland FEB has developed and sponsored the program to facilitate the use of ADR among local and state government and Federal agencies. Its objective is to permit participating agencies to draw from the program's roster of ADR neutrals and use the services free of charge and with minimal paperwork. A keynote of the program is flexibility for individual agencies on how they may access and use the program.

### *Duration/Current Activity*

The current program was originally set up to run as a pilot from October 23, 1996, to October 23, 1997. The program continues to operate as set up in the pilot.

### *Rules Governing the Activity*

The Portland FEB has issued the *ADR/Shared Neutrals Program Handbook* which describes the program and its requirements. The FEB ADR Subcommittee provides oversight of the program.

### *Program Members*

Members of the FEB ADR Subcommittee include individuals from the Bonneville Power Administration; Environmental Protection Agency; Bureau of Land Management; U.S. Forest Service; Clark County (Washington); Portland/Multnomah County; Indian Health Service; and Army Corps of Engineers.

### *Contact*

Julie Wells, Chair, ADR Subcommittee, Portland Federal Executive Board or Ron Johnson, P.O. Box 3621, Portland, OR 97208. Telephone: (503) 230-7370; Consortium web site address: <http://www.nwp.usace.army.mil/feb>.

# Seattle Federal Executive Board Intergovernmental Dispute Resolution Consortium

## Shared Neutrals

### *How the Shared Neutrals System Works*

Each participating agency appoints an Agency Coordinator who is the focal point for the initial screening of requests for services from that agency and who coordinates all logistical arrangements within the agency, including payment of travel expenses. When a dispute arises, the Agency Coordinator contacts the Consortium In-Take Coordinator who, in turn, contacts the parties to provide them with information about the program. If mediation is desired, the Intake Coordinator coordinates the time and location of mediations and finds mediators for the parties. The consortium uses a co-mediated, eight step method for all mediations

### *Background/Objective*

In 1993, a steering committee was established by Michael Walsh, then of Health and Human Services, and Deborah Diamond, Internal Revenue Service, to design a program to support ADR in the Federal community. The program was designed specifically to support a consortium of Federal mediators who would be able to provide free services to all agencies. Their program proposal was adopted by the Seattle Federal Executive Board

### *Duration/Current Activity*

The consortium began offering services in 1993 with 273 mediations in the last three years ending in 1998 (120 cases were completed in 1998). The settlement rate for all cases (excluding EEO cases) is approximately 87%. Where the consortium mediates for another Federal agency, the success rate is 97%. The consortium provides services to any Federal, state, county or local government agency that provides a written request for services.

### *Rules Governing the Activity*

Requirements for the program are set by the consortium members themselves, and include very stringent qualifying requirements for mediators used by the member agencies.

### *Program Members*

Federal agencies, Washington State, King County (Washington), City of Seattle, and Port of Seattle.

### *Contacts*

Neil A. Doherty, Chair, Seattle FEB Intergovernmental Dispute Resolution Consortium, 1200 Sixth Ave., M/S OMP-077, Seattle, WA 98101; Telephone: (206) 553-0125 or (206) 220-6171; FAX: (206) 553-4672; Email: doherty.neil@epamail.epa.gov or sfeb@halcyon.com. Ann Marie Stacker, Chair, Social Security Administration, Seattle, WA; Telephone: (206) 615-2241. Consortium web site address:

<http://www.seattle.feb.gov/mediation.htm>.

# Washington, DC - Sharing Neutrals Program

## Shared Neutrals

### *How the Shared Neutrals System Works*

Participating Federal agencies wishing to use the services of Sharing Neutrals contact the Program Administrator in writing. Sharing Neutrals then provides the names and contact information for three senior mediators and three co-mediators to the requesting agency. The requesting agency is responsible for scheduling the initial mediation conference, in coordination with the neutrals, and handling meeting space and other logistics. At the conclusion of mediation, all parties complete evaluation forms for return to Sharing Neutrals.

### *Background/Objective*

The program was set up to provide low cost, high quality neutrals to Federal agencies. It is meant to provide an option when an agency has no "in-house" mediators or when a party questions the neutrality of a mediator employed by the agency.

### *Duration/Current Activity*

The program was begun as a pilot in the mid-1990's. Thirty-two executive branch agencies and one legislative branch agency now participate. There are 180 neutrals on the combined mediator and co-mediator rosters. About 100 cases are referred each fiscal year. Most of the cases involve workplace disputes although the program will refer neutrals for other types of cases.

### *Rules Governing the Activity*

Neutrals must meet minimum requirements including successful completion of a 20-hour mediation skills course, specified mediation experience, and references. Senior mediators must have significant documented mediation experience. All roster members and participating agencies agree to abide by the Sharing Neutrals Standards of Practice (January 2000) and the confidentiality principles outlined in the Administrative Dispute Resolution Act of 1996.

Agencies using the program must go through the program administrator for mediator referrals. They should not contact Sharing Neutrals without a referral for a specific case. Because neutrals provide services as a collateral duty, with supervisory approval, acceptance of assignments outside Sharing Neutrals could jeopardize employee rights and benefits.

### *Program Members*

Primarily Washington-Baltimore Federal agencies.

### *Contact*

Peg Porter, Health and Human Services, 200 Independence Avenue, SW, Room 637-D, Washington, DC 20201; Telephone: (202) 401-2847; FAX: (202) 690-5863; Email: [pporter@os.dhhs.gov](mailto:pporter@os.dhhs.gov).

## **Section IV: Administrative Appeals Agencies**

In the Federal dispute resolution process, four key agencies adjudicate appeals arising from workplace disputes. These administrative appeals agencies are the Federal Labor Relations Authority (FLRA), the Equal Employment Opportunity Commission (EEOC), the Merit Systems Protection Board (MSPB), and the Office of Special Counsel (OSC). Each has its own statutorily-based areas over which it has authority to adjudicate. MSPB also has appellate jurisdiction over additional matters as authorized by the U.S. Office of Personnel Management (OPM). In addition, while not an "administrative appeals" agency, this section also discusses the Federal Mediation and Conciliation Service (FMCS) since much of what that agency offers for dispute resolution cross-cuts the entire Government, including the four agencies above.

In general, each agency has consistently been faced over the years with demands for quicker resolution of disputes, often at times when they are faced with limited resources to meet those demands. As a result, the administrative appeals agencies experimented with various techniques to carry out their missions. MSPB's settlement initiative was one of the earliest and most concerted efforts to streamline its adjudication process and has led to the present-day statistic that over one half of its appeals are resolved through the settlement process. EEOC has been a leader in encouraging agencies to use ADR techniques to resolve workplace discrimination disputes. FLRA has been instrumental in streamlining the formal adjudicatory process for considering labor-management relations issues and FMCS has been the Government's long-time "go-to" agency for obtaining the services of mediators. Each of the administrative appeals agencies is now using ADR techniques to adjudicate matters over which it has jurisdiction, and each is engaged in substantial outreach efforts to encourage potential litigants to use their respective ADR processes.

This section provides a short summary of the various ADR initiatives each of the four administrative appeals agencies and FMCS are using (or planning to use) at this time. In addition to describing initiatives, the summaries provide the names and contact information for individuals at each agency who can provide more detailed information if needed.

### **Equal Employment Opportunity Commission (EEOC)**

The EEOC is an independent agency charged with nationwide leadership in anti-discrimination efforts and enforcement of related laws. Within the agency, the Office of Federal Operations (OFO) conducts these activities for Federal employees. The regulations that govern Federal sector Equal Employment Opportunity (EEO) programs are found at Part 1614 of 29 CFR and the EEOC's Management Directive (MD)-110 (November 9, 1999).

As of January 1, 2000, all federal agencies are required to establish or make available an ADR program at both the pre-complaint and formal complaint stages of the EEO process. The OFO is committed to assisting Federal agencies with technical guidance on their ADR program to ensure its consistency with EEOC's regulations and its MD-110.

Another important function of the OFO is to act as a clearinghouse for ADR information in the Federal sector, including statutory and regulatory documents, best practices, sources for neutrals, training opportunities, and ethical issues. In this regard, the OFO is developing an ADR webpage to provide agencies with easy access to its ADR clearinghouse, ADR questions and answers, and links to other ADR resources.

In an effort to assist small Federal agencies in the Washington, D.C. area, the OFO has also established the Federal Sector Mediation Services (FSMS) pilot program to provide mediation services so those agencies can comply with the ADR requirements of Part 1614. To participate in this pilot, an agency must enter into a memorandum of understanding with the EEOC, whereby the agency would compensate the EEOC for the hourly wages and benefits of the lead mediator and any related administrative costs, pursuant to the Economy Act, 31 U.S.C. 1535.

Most EEOC field hearing offices will make some attempt to encourage pre-hearing settlement of disputes that come to them, but each office takes its own approach. In some offices, the administrative judge assigned to the case will personally conduct settlement discussions with the parties, and then proceed to hearing if these discussions are not fruitful. In others, the judge who guides settlement exploration is not the same judge who would hear the case. Many EEOC hearing offices offer pre-hearing mediation programs. Except for the FSMS pilot program, which is currently limited to the small agencies in the Washington, D.C. area, the EEOC does not normally have any means to become involved in the resolution of a complaint until it has been assigned for hearing, but agencies are encouraged to contact the local field office if they wish to explore joint ways they can encourage earlier resolution of disputes.

For further information, consult the agency's home page at <http://www.eeoc.gov/> or contact: Donald J. Names, Director, Special Services Staff, EEOC Office of Federal Operations, 1801 L Street, N.W., 5th floor, Washington, D.C. 20507. Telephone: (202) 663-4591; Fax: (202) 663-7022.

## **Federal Labor Relations Authority (FLRA)**

The Federal Labor Relations Authority (FLRA) is an independent agency responsible for administering the labor-management relations program for 1.9 million Federal employees world-wide, approximately 1.1 million of whom are exclusively represented in 2,200 bargaining units. The Authority is actively engaged in labor-management collaboration and other ADR efforts dedicated to reducing the costs of conflict in the Federal service.

The Authority has set up an agencywide program known as the Collaboration and Alternative Dispute Resolution Program (CADR). This program joins all three independent components of the FLRA (the Authority, the Office of General Counsel, and the Federal Service Impasses Panel (FSIP)) to reduce the cost of conflict in the Federal workplace.

CADR helps resolve disputes before they become cases. The CADR program provides interest-based conflict resolution services in pending unfair labor practices, negotiability, representation, and impasse bargaining disputes. CADR has been designed to assist the parties in integrating appropriate ADR techniques into their dispute processes to focus on

early resolution. The program also focuses on facilitation and training in relationship building. CADR staff works with labor and management in developing collaborative relationships and constructive approaches to conducting their relationships. When parties voluntarily choose to use CADR's services, the case remains with the particular FLRA component (the Authority, the Office of General Counsel or FSIP). In most circumstances, the case is held in abeyance at the parties' request while attempts are made to informally resolve the dispute.

Within the FLRA Regional Offices, the General Counsel has implemented the Facilitation and Intervention Training and Education Policy (FITE) program. This program allows FLRA employees to use their labor law and problem solving expertise to assist Federal employees, unions and agency management in resolving disputes and enhancing labor-management relationships. FITE allows Federal agencies to partner with Federal unions to deliver the highest quality services that enhance the quality of worklife.

For further information, consult the agency's home page at <http://www.flra.gov/>, or contact: Andrew Pizzi, CADRO Program; Federal Labor Relations Authority, 607 14th Street, NW, Fourth Floor, Washington, DC 20424-0001; Telephone: (202) 482-6690 ext 408; Fax 202-482-6574. David Feder, FITE Program; Federal Labor Relations Authority, 607 14th Street, NW, Washington, DC 20424-0001; Telephone: (202) 482-6608.

## **Federal Mediation and Conciliation Service (FMCS)**

The Federal Mediation and Conciliation Service (FMCS) is an independent agency of the Federal Government established in 1947. The Service, headquartered in Washington, DC, has 210 mediators located in 75 field offices (divided into ten sub-regions) across the country. FMCS is best known for its role as "Peacemaker" in collective bargaining disputes; however, its commitment to dispute resolution extends beyond the labor-management table.

The term "Alternative Dispute Resolution" (ADR) is used to describe a variety of approaches that are alternatives to courtroom litigation or agency adjudication and rulemaking. Under the Administrative Dispute Resolution Act of 1996, FMCS was officially authorized to share its expertise in all aspects of dispute resolution with Federal agencies, including third-party dispute resolution assistance; dispute resolution training for agency personnel; and consultation/systems design. Additionally, FMCS consults with and assists Federal agencies and their designated dispute resolution specialists develop dispute resolution policies.

FMCS has become a leading authority on mediation techniques and offers mediation and facilitation services, consultation, in-house training and development programs to Federal, state and local governmental bodies mediators and agency personnel who structure program content based on the specific needs of the parties. Among these programs and processes currently offered to improve problem-solving, understanding and resolution of disputes are:

### ***ADR Mediation/Facilitation***

FMCS can offer trained mediators/facilitators to assist in resolving disputes in a variety of areas. FMCS mediators have resolved complex disputes involving environmental issues,

educational grants, agriculture, age discrimination, and other ADR matters for Federal, state and local agencies.

### ***Negotiated Rulemaking***

Under the Negotiated Rulemaking Act, FMCS has been authorized to convene and facilitate complex multi-party negotiated rulemaking procedures. As a neutral Federal agency, it works with the regulatory agency involved and all the interested parties who would be covered to help produce a consensual draft rule. This rule is then sent out for public comment. FMCS has mediated rulemaking negotiations for the Federal Aviation Administration, Department of Transportation, Environmental Protection Agency, Occupational Safety and Health Administration, Department of Interior, Department of Housing and Urban Development, and the states of Tennessee, New York and Arizona, among others.

### ***Systems Design Consultation***

FMCS mediators are available to work with governmental agencies to design systems for internal or external dispute resolution. Such work normally entails a needs assessment and diagnosis and may involve a site visit. Systems design also includes a "procedures audit" of how issues and problems are currently resolved, what options are available for improvement, and how any new program can be implemented, maintained, and evaluated.

### ***Mediation in Age Discrimination Disputes***

Based upon an interagency agreement with the Department of Health and Human Services, FMCS offers mediation to all individuals who file complaints alleging discrimination on the basis of age, in regard to any Federally-funded program (e.g. food stamps eligibility, public housing, education) covered by the Age Discrimination Act of 1975. When a complaint alleging age discrimination is filed with a Federal agency, it is forwarded to FMCS where a mediator has 60 days to assist the parties in reaching agreement. If no settlement is reached at the end of that period, the complaint is returned to the responsible agency for investigations and formal enforcement proceedings.

For further information or assistance, contact the Federal Mediation and Conciliation Service, International and Dispute Resolution Services, ADR Coordinator, 2100 K Street, NW, Washington, DC 20427; Telephone: (202) 606-5445; FAX: (202) 606-3679; Web site address: <http://www.fmcs.gov/pubinfo/adrbroch.htm>.

## **Merit Systems Protection Board (MSPB)**

The U.S. Merit Systems Protection Board is an independent agency in the Executive branch of the Federal Government that serves as the guardian of Federal merit systems. The Board's mission is to ensure that Federal employees are protected against abuses by agency management, that Executive branch agencies make employment decisions in accordance with the merit system principles, and that Federal merit systems are kept free of prohibited personnel practices. A key function is hearing and deciding employee appeals from agency actions. The Board handles close to 10,000 cases each year.

Under MSPB regulations, individual administrative judges at the regional level "may initiate attempts to settle the appeal informally at any time." As part of the Board's settlement program, the judge assigned to the case uses standard language requesting the parties to

attempt to resolve and settle the matter in the judge's first correspondence after an appeal is filed. After being assigned a case, some judges will immediately contact the parties by telephone to initiate settlement discussions. Prehearing conferences also may be used to help achieve resolution of an appeal or, at least, help define and sometimes narrow the scope of formal proceedings. In some cases, a regional office may assign another judge to act as a "settlement judge" at the request of the parties to facilitate resolution. In most cases, settlement agreements are entered into the record with the Board retaining enforcement authority. Overall, more than half of the appeals filed with the Board are settled.

MSPB also operates a settlement program at the full Board level to attempt resolution of appeals involving petitions for review of initial decisions. Under this program, a small cadre of individuals in Washington select a limited number of cases which appear to have the most potential for settlement. Once a case is selected, the Board's settlement attorneys formally contact the parties in the case to initiate the resolution process. The Board may use the services of an outside neutral to facilitate settlement. Approximately 25% of the cases selected at this level for special attention are ultimately settled.

Over the years, the Board has constantly sought to modify and streamline the formal appeals process so that an ever-increasing number of appeals can be adjudicated in a timely fashion in spite of ever-increasing budget restraints. A new effort in 1998 to conserve the resources of the Board and individual agencies involved in employee appeals was to use video conferencing technology in hearings in employee appeals. In selected cases, direct testimony from witnesses may be obtained through video links between the appellant, the agency, and the judge without incurring the travel costs normally associated with conducting a hearing at a set location. The Board notes that it has saved up to \$2500 in a single case while preserving the quality of the hearing process. The program received a 1998 Hammer Award for its significant contributions in support of reinventing Government principles.

In 1998, MSPB, in partnership with the Public Administration Forum (PAF) and George Washington University, developed a joint program of instruction for Dispute Resolution Specialists who can help intercept and resolve cases prior to adjudication by MSPB.

During 1998 and 1999, MSPB, in partnership with the Public Administration Forum (PAF) and the George Washington University, developed a joint program of instruction for Dispute Prevention Specialists who can help intercept and resolve cases prior to adjudication by MSPB. The goals of the program are to help agencies anticipate, manage and reduce workplace conflict and tension, so that productivity and job satisfaction are increased while agency resources spent directly and indirectly on issues related to conflict (including case management) are reduced. The integrated 8-day education package provides extensive training on how to anticipate and avoid conflict and facilitate early case resolution, how to help organizations develop better management and communication structures which promote less conflict, and provides instruction on federal personnel law principles, including MSPB case law. The Dispute Prevention Specialist could perform multiple roles in an agency, all related directly or indirectly to early conflict resolution and avoidance.

On May 24, 1999, MSPB amended its rules to provide an automatic extension of the regulatory time limit for filing an appeal with MSPB where an appellant and agency mutually agree, prior to the timely filing of an appeal, to attempt to resolve their dispute through an

ADR process. MSPB made this change to ensure that its filing requirements do not deter potential appellants from first attempting to resolve their disputes through an agreed-upon ADR process at the agency level. This revision can be viewed in the Federal Register at 64 F.R. 27899.

Finally, in support of its efforts to make its formal dispute resolution system work better, MSPB conducts an aggressive outreach program to help educate those who might be involved in Board matters. This program makes administrative judges and other agency officials available to speak in various forums, e.g., seminars, workshops, conferences, and symposia. Often, opportunities are provided for practitioners before the Board to participate in skills-building training sessions which may include exercises in settling appeals as an alternative to formal litigation. [See Section V on ADR Training and Assistance Sources for more information on the Board's training offerings.]

For further information on MSPB's ADR initiatives, see the agency's web homepage at <http://www.mspb.gov/> or contact:

***Regional Level Settlement Program:***

Darrell Netherton, Director, Regional Operations, U.S. Merit Systems Protection Board, 1615 M St., N.W., Washington, DC 20419; Telephone: (202) 653-6772, Ext. 1186; FAX: (202) 653-8911.

***Board Level Settlement Program:***

John Murphy, Associate Director, Office of Appeals Counsel, U.S. Merit Systems Protection Board, 1615 M St., NW, Washington, DC 20419. Telephone (202) 653-6772, Ext. 1245; FAX: (202) 653-2260.

***Certified Appeals Resolution Advisor Program:***

John Settles, Director of Program Development, Public Administration Forum, 225 Reinekers Lane, Suite 590, Alexandria, VA 22314; Telephone: (703) 684-4799; FAX: (703) 836-7953.

***Video Conferencing Program:***

Bently Roberts, Regional Operations, U.S. Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419; Telephone: (202) 753-6772, Ext. 1143; FAX: (202) 653-7655.

***Outreach Program:***

Darrell Netherton, Director, Regional Operations, U.S. Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419. Telephone: (202) 653-6772, Ext. 1186; FAX: (202) 653-7655.

## **Office Of Special Counsel (OSC)**

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Under the Civil Service Reform Act and the Whistleblower Protection Act, the OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing. To that end, OSC investigates allegations of prohibited personnel practices

and other improper employment practices within its jurisdiction, and seeks appropriate corrective or disciplinary action.

In early 2000, OSC launched a nationwide voluntary Mediation Program as an alternative approach to resolving complaints of prohibited personnel practices (PPPs). OSC's Mediation Program helps federal agencies and complainants resolve PPP complaints in a quicker, less expensive, and more amicable way. The Mediation Program also enables OSC to concentrate its investigative and prosecutorial resources on a smaller percentage of cases, thereby increasing its effectiveness as a law enforcement agency. Complaints are generally resolved through the Mediation Program within 45 - 100 days after the parties agree to mediate.

OSC initiates the mediation process by identifying cases that are appropriate for mediation, and that would otherwise be referred to OSC's Investigation Division. In those cases, OSC's ADR Specialist invites the complainant and the employing agency to participate in the Mediation Program. If both parties accept the invitation, trained mediators, experienced in federal personnel law, conduct the mediation.

The parties risk nothing by mediating their OSC complaint. If mediation does not lead to resolution, the complaint is assigned to the OSC Investigation Division, as it would have been had the parties not tried mediation.

OSC engages in ongoing comprehensive evaluation of the Program and, based on its experience thus far, is optimistic that mediation will continue to achieve the program goals that are described above.

For further information, contact Julia Roig, ADR Specialist, OSC, 1730 M Street, NW, Suite 300, Washington, DC 20036; Telephone: (202) 653-2253; Email: [jroig@osc.gov](mailto:jroig@osc.gov). Additional information about OSC's Mediation Program may be accessed at OSC's web-site: [www.osc.gov](http://www.osc.gov).

## **Section V: ADR Training and Assistance Sources**

### **PART I. Federal Sources For ADR Training and Assistance**

#### **Department Of Defense**

Training programs offered by the Department of Defense include:

##### ***Partnership Council Training, Facilitation and Intervention***

This on-site service involves direct partnership assistance to labor and management in an ongoing relationship. It provides skills and process training for partnership council members and delivery of facilitative interventions for partnership councils in various stages of development. Agendas, training exercises and delivery of training are customized to the needs of the parties. This on-site assistance is normally limited to fifteen to twenty management and union participants. Depending on your needs, this assistance is two to three days in duration.

##### ***Interest-Based Negotiations/Interest-Based Problem-Solving***

This on-site service trains management and union negotiating teams or other groups in the interest-based techniques of negotiations and problem solving. It introduces team members to interest-based principles and problem-solving skills to the negotiation of real issues. This on-site training is normally limited to fifteen to twenty management and union participants. Depending on your needs, this training is two to three days in duration.

##### ***Basic Mediation Skills***

This on-site training provides the basic skills necessary for mediation. The training includes an overview of Alternative Dispute Resolution, confidentiality, defining mediation and its stages, using effective communication skills in the mediation process, and applying the interest-based approach in mediating disputes. Exercises and role -plays are used throughout the course to provide the participants an opportunity to practice the techniques and skills taught throughout the training. This on-site training is strictly limited to twenty-four participants. This training is three days in duration.

For additional information, contact the DoD Field Advisory Services, Labor & Employee Relations Branch, 1400 Key Boulevard, Suite B200, Arlington, Virginia, 22209-5144. Telephone: (703) 696-6301 (menu selection #3); Fax: (703) 696-4588; or Email:

[labor.relations@cpms.osd.mil](mailto:labor.relations@cpms.osd.mil)

## Federal Mediation and Conciliation Service (FMCS)

Training programs offered by the FMCS include:

### *Orientation to Alternative Dispute Resolution (ADR) Techniques*

This is a one-half to one-day "awareness" workshop which explores the various ADR techniques of negotiation, mediation, fact-finding, settlement judges, facilitation, minitrials, arbitration, negotiated rulemaking, and consensual decision making. This includes a combination of lecture, discussions, exercises, and mock mediations.

### *FMCS Specialized Training in Dispute Resolution Skills*

Programs offered by FMCS are customized to the needs of Government agencies and their clients. For example, FMCS has worked with numerous Federal, state, and local agencies to train their personnel in understanding the dynamics and practice of dispute resolution. These programs include:

- Conflict Resolution
- Differences between mediation, arbitration, counseling, adjudication, etc.
- Communication skills and how to deal with difficult people
- Negotiation skills - Interest Based Negotiations and other Win/Win Approaches
- Mock exercises
- Ethical concerns
- Measures of success

These programs (whose content can range from general to specific and typically last 1 - 5 days) are designed for neutrals, advocates, and those administering the particular program. Follow-up programs and resources are also available.

Successful programs have been completed with the Equal Employment Opportunity Commission, Department of Health and Human Services, Department of Agriculture, Department of Education, Merit Systems Protection Board, Farmers Home Administration's Farmer/Lender Program, Defense Mapping Agency, Armed Service Board of Contract Appeals, Department of Interior, Department of Energy and others.

For further information, contact the Federal Mediation and Conciliation Service, International and Dispute Resolution Services, ADR Coordinator, 2100 K Street, NW., Washington, DC 20427. Telephone: (202) 606-5445; FAX: (202) 606-3679; Web site: <http://www.fmcs.gov/pubinfo/adrbroch.htm>.

[NOTE: See also FMCS in [Section IV: Administrative Appeals Agencies.](#)]

## Federal Labor Relations Authority (FLRA)

The FLRA's Collaboration and Alternative Dispute Resolution Program (CADR) assists parties in the resolution of pending case disputes, provides partnership facilitation, and assists parties with relationship building and the development of ADR programs. Through the FLRA's National Office in Washington and a network of Dispute Resolution Specialists in its Regional and Headquarters offices, the CADR Program promotes the use of interest-based problem-solving in labor-management relationships and provides agency and union representatives with the skills to resolve disputes at earlier stages.

Training programs offered by the FLRA's CADR program include: *Advanced Statutory, Interest-Based Problem Solving, Facilitation, ADR Design Training, Mediation Skills, and Relationship Building*. These programs are generally offered as part of a larger program designed to resolve pending cases or help heal damaged relationships.

Training in Interest-Based Bargaining is offered at many different levels. Depending on the skill level desired by the parties, this program can be designed to be an overview of the process or an intense skill development. CADR staff explain the process and use exercises that allow the participants to begin to develop the skills necessary to successfully use this approach. In most situations, participants apply the process to the particular issues in dispute.

The Advanced Statutory Training was developed to address concerns expressed by both labor and management. In light of the increasing complexity of Federal sector labor law, practitioners see a need for more advanced knowledge of the law and its related concepts. This seminar deals with the most significant labor-management relations issues in the Federal sector, and also illustrates how ADR fits into traditional labor-management negotiations.

The Relationship Building Training is usually offered in conjunction with either partnership or interest-based bargaining training. It typically involves team building exercises and modules about effective listening and communicating, highlighting how essential these skills are in long-term relationships.

The CADR program also provides interest-based conflict resolution services in pending unfair labor practices, negotiability disputes, representation and impasse bargaining disputes. CADR representatives combine their ADR skills with labor law expertise to assist Federal employees, unions and agency management in resolving disputes and enhancing labor-management relationships.

For more information on any of the CADR efforts, contact Fern Feil Kaufman, Director, CADR, Federal Labor Relations Authority, 607 14th Street, NW, Washington, DC 20424. Telephone: (202) 482-6690 ext. 405.

## Graduate School USDA

The Graduate School USDA offers training at various locations nationwide. A listing of telephone numbers, facsimile numbers, and email addresses for each location follows the

Graduate School course descriptions. The following courses are among those available from the Graduate School training centers.

***Alternative Dispute Resolution, 1.2 CEU, 2 days.***

Management and union officials will learn valuable techniques in this practical program on ADR. This training will provide participants with an opportunity to understand methods, techniques and appropriate applications for ADR; identify legitimate characteristics of neutrals and their role in the ADR process; recognize opportunities to use ADR processes in Federal agencies; develop an action plan to implement an ADR program; and assess mediation techniques to resolve disputes.

***Conflict Management Practicum, 1.8 CEU, 3 days.***

All participants in the *Conflict Management Certificate Program* (see below) must complete a Practicum to receive their certificate. The Practicum is the participants' final project, and may consist of a paper, a video presentation, the design of a mediation program or other meaningful product. By applying the knowledge and skills learned during the program to an actual workplace conflict, participants demonstrate their competency and expertise. The program will provide participants with an opportunity to create a useful product that illustrates their ability to help settle disputes; put into practice the skills gained during the program; and gain valuable insight from experienced faculty who will advise participants during the completion of the Practicum. The practicum is conducted on an as-needed basis.

***How to Deal with Conflict: Principles and Practice, 1.2 CEU, 2 days.***

This course is designed for supervisors, managers and team leaders. By understanding why conflict originates in the workplace and how to best resolve it, participants will be more effective on the job. The training will provide participants with an opportunity to sharpen their personal skills at resolving conflict; resolve conflict cost effectively and equitably; lead their employees to act in the best interest of the whole organization; and develop win/win solutions for their organizations.

***Constructive Conflict Resolution, 1.8 CEU, 3 days.***

This course is designed for employees who want to develop skills for managing and resolving conflict positively and assertively. Participants will be provided the opportunity to learn how to identify and resolve conflict in a variety of situations; control tense situations before they get out of hand; and use proven conflict resolution approaches.

***Facilitator Workshop, 2.4 CEU, 4 days.***

This workshop is designed for employees who have experience working with groups. Managers, supervisors, team leaders, human resource management professionals will learn how to facilitate complex human interactions in a group setting. Participants will be provided an opportunity to develop key facilitation skills; practice process consultation; defuse difficult interpersonal conflict; deal with disruptive group members; and optimize overall group performance.

***Interest-based Problem Solving, 1.8 CEU, 3-days.***

Successful labor contracts are the result of mutual understanding. Management officials and union representatives responsible for negotiating working conditions and resolving workplace problems will learn valuable techniques for working together. Participants will be

provided the opportunity to recognize the pitfalls of the traditional, adversarial approach to negotiating labor contracts; distinguish between interest-based and position-based problem solving; practice techniques that support the interest-based process; develop a strategy for identifying mutual interests; use techniques to focus on issues rather than personalities; and formulate mutually satisfying options based on objective standards rather than the power of leverage.

***Managing Multi-party Disputes, 1.2 CEU, 2-days.***

Facilitating complex disputes involving many representatives is a valuable skill for government supervisors, managers and internal consultants. Learn how to use a participatory process to obtain public input on proposed agency rules and regulations, and how to handle complicated cases with multiple stakeholders. This course will provide participants with the opportunity to enable disputing parties to find common ground; implement proven techniques for dealing with seemingly intractable disputes; and effectively manage input from several parties representing multiple interests.

***Mediating Employee Disputes, 2.4 CEU, 4-days.***

How an organization manages Equal Employment Opportunity (EEO) complaints, union or administrative grievances and other employee relations issues will determine whether these issues can be resolved at the lowest level possible. Personnel specialists and EEO officials will find this course especially helpful. Participants will be provided the opportunity to understand ADR and interest-based negotiating; learn how to select cases best suited for mediation; recognize when ADR is not appropriate; coach disputing parties to communicate productively; and determine whether joint mediation or caucus will best suit a particular case.

***General Mediation Skills, 2.4 CEU, 4 days.***

This course is designed for managers, supervisors, team leaders and any employee who is interested in obtaining the skills necessary to become an effective mediator. Participants will be provided an opportunity to understand ADR philosophies and techniques; distinguish among positions, issues and personal interest; prevent problems that will damage employee morale and performance; build a work environment that helps employees succeed; and apply mediation techniques for developing workable solutions to conflict situations.

***Positive Approaches to Difficult People, 1.2 CEU, 2-days.***

This training provides practical techniques to successfully handle challenging personalities and to cope effectively with difficult coworkers, employees and supervisors. The training will provide skill-building exercises to each participants how to maintain their composure around difficult people; compromise without backing off; motivate others to take positive action; and minimize the negative impact of difficult personalities.

***Conflict Management Certificate Program***

The Graduate School, USDA developed the Conflict Management Certificate Program to respond to the National Performance Review, which encourages the use of conflict resolution to manage organizational problems within agencies. Participants who complete the Program will be equipped with the knowledge and skills to handle disputes in the workplace. The program offers a practical approach to learning and practicing a wide range of approaches for addressing conflict. The Certificate Program offers more than mediation training. It incorporates the latest issues, trends and practices in the field. Participants will gain a broad

perspective on implementing the continuum of alternative dispute resolution methods. Designed to be interactive and participatory, the courses give participants an opportunity to role play, engage in discussions and exercises and apply what they learn to an actual organizational issue. Each participant is required to complete the following curriculum in order to earn a certificate. There are a total of 11 courses (equal to 15.6 CEU), including a practicum to demonstrate competency.

- Conflict Across Cultures CMGT7101D - 2 days, 1.2 CEU 1150
- Conflict Management Practicum CMGT99900D - 1.8 CEU 1111
- How to Deal with Conflict: Principles and Practices CMGT7104D -2 days, 1.2 CEU 1737
- Facilitator Workshop TDEV8120D - 4 days, 2.4 CEU 1127
- Interpersonal Communication Skills COMM7006D - 2 days, 1.2 CEU 1504
- Managing Conflict in an Environment of Change CMGT7102D - 2 days, 1.2 CEU 1161
- Managing Multi-Party Disputes CMGT7105D - 2 days, 1.2 CEU 1154
- General Mediation Skills CMGT7103D - 4 days, 2.4 CEU 1157
- Negotiation Techniques MGMT9014D - 2 days, 1.2 CEU 1106
- Planning & Eval. Conflict Management Programs CMGT8100 - 2 days, 1.2 CEU 1112
- Preventing Violence in the Workplace LABR8102D- 1 day, 0.6 CEU 1259

To receive course descriptions, dates and locations, use the Fax Back service by calling 1-800-789-8658 and following the instructions. Have your fax number available to input into the system.

For more information on the certificate program, contact AI Officer at 202-314-3432 or e-mail to [alvin\\_officer@grad.usda.gov](mailto:alvin_officer@grad.usda.gov)

### **Location and Contact Numbers at USDA Graduate School:**

**Midwest Training Center**, Chicago, IL, Telephone: (312) 353-2929,  
[Chicago@grad.usda.gov](mailto:Chicago@grad.usda.gov), Fax: (313) 353-3297

**National Capital Training Center**, Washington, DC Telephone: (202) 314-3400,  
[nctc@grad.usda.gov](mailto:nctc@grad.usda.gov), Fax: (202) 479-6810

**Northeast Training Center**, Philadelphia, PA, Telephone: (215) 861-4700,  
[philly@grad.usda.gov](mailto:philly@grad.usda.gov), Fax: (215) 861-4723

**Southeast Training Center**, Atlanta, GA, Telephone: (404) 331-3488,  
[atlanta@grad.usda.gov](mailto:atlanta@grad.usda.gov), Fax: (404) 730-3813

**Southwest Training Center**, Dallas, TX, Telephone: (214) 767-8245,  
[dallas@grad.usda.gov](mailto:dallas@grad.usda.gov), Fax: (214) 767-8205

**Western Training Center**, San Francisco, CA, Telephone: (415) 281-7025, [sanfran@grad.usda.gov](mailto:sanfran@grad.usda.gov), Fax: (415) 281-7026

The Graduate School can also design a program to meet an agency's special training needs and deliver it to their employees in multiple locations across the country. To learn more about their professional training opportunities contact the nearest regional training center, use the toll free number (888) 744-GRAD, or web site: <http://grad.usda.gov/>.

## **U.S. Merit Systems Protection Board (MSPB)**

The MSPB has in-house trainers who instruct others on techniques and specific skills tailored to MSPB appeals. MSPB currently provides training upon request to interested parties. They provide an explanation of the Board's Alternative Dispute Resolution (ADR) process and provide training at no cost to agencies and private organizations when resources are available.

For more information contact Darrell Netherton, Director, Regional Operations, U.S. Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419. Telephone: (202) 653-6772 ext.1186; FAX: (202) 653-8991.

## **U.S. Office Of Personnel Management (OPM)**

OPM's Easter Management Development Center offers an introductory seminar, *Alternative Dispute Resolution*, that examines the major ADR techniques and current dispute applications. The seminar is designed for executives, managers, and mission program staff at GS-13 and above. Participants will learn about ADR procedures and their use; identify sources of conflict; understand the principles and value of interest-based negotiating; understand the advantages of different dispute resolution processes such as facilitation, mediation, arbitration and minitrials; and identify the obstacles of using ADR and how to overcome these problems.

For additional information, contact OPM's Easter Management Development Center at 101 Lowe Drive, Shepherdstown, WV 25443. Telephone: (304) 870-8000; FAX: (304) 870-8001; Web site: <http://www.opm.gov/mdc/>.

## **Pension Benefit Guaranty Corporation (PBGC)**

PBGC established an ADR Implementation Committee within its Office of the General Counsel (OGC). The Committee members attended intensive ADR training presented by various sources, then put together an ADR Desk Book and made training available to all attorneys within OGC. Additionally, PBGC's EEO and labor relations staffs have received training in applying ADR to resolve EEO complaints and labor-management relations disputes, including grievances and collective bargaining negotiations.

PBGC's ADR Implementation Committee will supply its Desk Book to other Federal agencies and personnel for the cost of reproduction, and is available to advise or meet with

ADR personnel from other agencies. PBGC also has training facilities that can be used by other agencies.

For further information, contact Philip R. Hertz, Deputy General Counsel and Dispute Resolution Officer, PBGC, 1200 K Street, N.W., Suite 340, Washington, DC 20006. Telephone: (202) 326-4020 ext. 3055; FAX: (202) 326-4112. Israel Goldowitz, Senior Assistant General Counsel and Chair, ADR Implementation Committee. Telephone: (202) 326-4020 ext. 3078.

## **PART II. Non-Federal Sources For ADR Training and Assistance**

The following list is not exhaustive of the organizations and institutions available, nor does the list constitute an endorsement by the U.S. Office of Personnel Management.

### **Colleges and Universities**

#### **COLUMBIA BUSINESS SCHOOL - Columbia University Executive Programs**

Columbia University Executive Programs offers the following training program:

##### ***Managing Interpersonal and Group Dynamics***

The ability to gain the confidence and support of subordinates and peers, as well as handle change, is critical for managers at all levels. Managing Interpersonal and Group Dynamics combines cutting-edge insight into communication, conflict resolution, negotiation and teamwork to increase personal performance.

This three-day program is designed for managers who want to perform more effectively in situations that require competence in interpersonal relations and the use of personal power. Managing Interpersonal and Group Dynamics focuses on the development of each participant, using 360-degree feedback and one-on-one coaching to assist in the development of an individual action plan to build on strengths and overcome weaknesses.

Exercises combined with a solid conceptual framework demonstrate effective interpersonal and group dynamics. Although this program is highly experiential, emphasis is also placed on understanding and applying theoretical analyses of interpersonal and group processes.

For additional information, contact Columbia Business School, Executive Education, 2880 Broadway, 4th Floor, New York, NY 10025. Telephone: (212) 854-3395; Fax (212)316-1473; Web site: [www.gsb.columbia.edu/execed](http://www.gsb.columbia.edu/execed).

## **CORNELL UNIVERSITY - New York State School of Industrial and Labor Relations**

Training programs offered by the Cornell University's New York State School of Industrial and Labor Relations include:

### ***Problem-Solving for Mutual Gains***

A 2½-day workshop designed to teach the principles of mutual gains (also known as interest bargaining) as they are applied to decision making and problem-solving within organizations. In this workshop, participants are taught how to engage in side-by-side problem-solving rather than face-to-face confrontation. The concept represents a shift from traditional adversarial approaches where parties take strong positions and stick to them at all costs. It is especially appropriate for parties representing constituents with different interests.

### ***Interest Bargaining***

Other titles: Mutual Gains Bargaining, Getting to Yes Bargaining, Principled Bargaining, Win/Win Bargaining. This is a 2½-day program offered as an in-house program only. Shorter workshops are possible. This course recognizes that negotiation, or bargaining, presents parties with competitive realities as well as collaborative realities as well as collaborative opportunities. It presents a method of bargaining that enables the parties to make the most of collaborative opportunities while also handling the competitive aspects of negotiation in a fashion more likely to result in technically superior deals, constituent compliance and an improved relationship. The course is simulation-based, increasing the likelihood that participants will be able to apply the skills and information to post-training applications such as contract bargaining, grievance negotiations, consultative labor-management deliberations, and general interpersonal relationships.

### ***Developing Effective Negotiation Skills***

This workshop explores the fundamental principles of negotiation, effective and ineffective approaches, negotiation traps and pitfalls, preparing for negotiation situations, traditional v. interest based approaches, and using negotiation techniques for effective problem solving. Participants will develop a better understanding of the variety of negotiation approaches and skills as well as techniques for more effective negotiation. The use of role plays, simulations, and large and small group presentations will be utilized to provide participants with an active understanding and experience with negotiation concepts. This 3-day program can be customized for specific on-site audiences and needs.

### ***Enhancing Conflict Resolution Skills***

This 3-day workshop involves the study of human conflict and responses to it from the individual, group, and organizational levels of interaction. Conflict and conflict management will be evaluated through analysis and discussion of the causes of conflict, cultural/gender perspectives, conflict goals, styles and tactics of conflict involvement, the role of power in conflict, assessing conflict in individuals, groups, and organizations, effective intervention strategies and ADR models for conflict management. Participants are taught to assess conflict situations (interpersonal and group) and to gauge the appropriate type and level of response for productive management. Participants will gain a better understanding of their own conflict perspective and approaches. Individual and group exercises provide opportunities to

actively employ the skills and techniques learned. This program can be customized for specific on-site audiences and needs.

### ***Managing Conflict in the Workplace***

This 3-day workshop focuses on interpersonal and group conflict as it applies to the workplace setting. Causes of workplace conflict will be discussed along with its impact on the organization and individuals exposed to it. The five major ways people engage in and respond to conflict will be presented and the effect each has in the workplace. The differences between interpersonal and group workplace conflict situations will be evaluated with techniques for assessment, intervention, and effective conflict management presented. Individual and group exercises are utilized throughout the workshop to demonstrate and apply the concepts presented. This program can be customized for specific on-site audiences and needs.

### ***Effective Dispute Resolution Programs***

This 1-day workshop provides participants with information on the broad spectrum of ADR processes that offer individuals, organizations, employers, and/or employees with private, timely, and inexpensive methods for managing interpersonal and group conflicts. It will present methods for assessing dispute resolution systems and selecting the one(s) most appropriate to the particular needs of those seeking to implement such a program. The workshop will provide participants with the principles of dispute resolution systems design and how to customize a program to their particular needs without compromising system integrity. Participants will also be provided with the information and skills needed for evaluating a dispute resolution program. This program can be customized for specific on-site audiences and needs and can be provided as an on-site consulting program.

### ***Mediation Training***

A 3-day workshop designed to train participants in mediation and the mediation process. It will present in-depth information on the development and use of mediation, the variety of mediation approaches including linear and non-linear, content and relationship, and multi-party, and the unique role and responsibility of the mediator. Participants will be trained in the most common mediation models and their respective process steps. Practice problems and ethical issues in mediation will be discussed and evaluated. Participants will work with various exercises to practice skills needed in specific stages of mediation and will also have the opportunity to experience mock mediations with debriefing after each. This program can be customized for specific on-site audiences and needs and can be expanded to meet more detailed or extensive training requirements.

### ***Personal Mediation Skills***

A 2 or 3-day workshop designed to teach the fundamental principles of mediation and the mediation process with the emphasis on how individuals can learn mediation approaches and skills and incorporate them in their personal daily interactions. Participants will learn the basic philosophy behind mediation, different mediation approaches and when to use them, effective mediation techniques to address problems, and how to engage another party in productive problem solving using mediation principles. The workshop will prepare participants to more effectively resolve problems for themselves as well as develop skills to increase their ability to effectively assist others in their organization, workplace, or personal relationships. This program can be customized for specific on-site audiences and needs.

### ***Increasing Effectiveness in Arbitration***

This 3-day workshop is designed for those participants who wish to improve their preparation for and participation in arbitration proceedings. The workshop focuses on the understanding of the arbitration process and case presentation. Practical skill aspects of arbitration will be developed including assessing both side's position and case, selection of an arbitrator, analyzing the strengths and weaknesses in a case, dealing with evidence, selecting and preparing witnesses, developing a theory of the case, opening and closing statements, briefs, and styles of case presentation. A mock arbitration hearing exercise will allow participants to apply workshop skills in a complete simulated case. This program can be customized in length and content for specific on-site audiences and needs.

For further information on *Problem-Solving for Mutual Gains* and *Interest Bargaining*, contact Ann Martin, Associate Dean of Extension and Public Service, Cornell University, Ithaca, NY 14853-3901. Telephone: (607) 255-2773; FAX: (607) 255-0574.

For further information on *Developing Effective Negotiation Skills*, *Enhancing Conflict Resolution Skills*, *Managing Conflict in the Workplace*, *Effective Dispute Resolution Programs*, *Mediation Training*, *Personal Mediation Skills*, and *Increasing Effectiveness in Arbitration*, contact Stephen P. LaLonde, Director, Alternative Dispute Resolution Programs, Rochester District, Cornell-ILR, Powers Building, Suite 243, 16 W. Main Street, Rochester, NY 14614-1601. Telephone: (716) 262-4440; FAX: (716) 262-3715.

## **GEORGE MASON UNIVERSITY - Institute for Conflict Analysis and Resolution**

The Institute for Conflict Analysis and Resolution (ICAR) offers a full graduate degree program in the field of Conflict Resolution. ICAR initiated the Master of Science in Conflict Resolution in 1981-82 and its Doctoral Program in Conflict Resolution in 1988-89. ICAR faculty provide consultation and training in conflict analysis and resolution, negotiations and mediation to businesses, corporations, governmental and non-governmental agencies and their staffs, including to the United Nations and the State Department, and to academic institutions worldwide.

For information about ICAR's degree programs, contact the Institute for Conflict Analysis and Resolution, George Mason University, 4400 University Drive, Fairfax, VA 22030-4444. Telephone: (703) 993-1310; FAX: (703) 993-1300; Web site: <http://www.gmu.edu/departments/icar/>.

## **HARVARD UNIVERSITY**

The Program on Negotiation (PON) at Harvard Law School offers a variety of opportunities for graduate students and professionals interested in developing a special expertise in negotiation and dispute resolution. Each year, the PON offers two semester-length courses: A Seminar on Negotiation and Dispute Resolution during the fall; and Mediation and Other Facilitative Roles in Dispute Resolution during the spring. In addition, the PON offers an extensive array of short training programs through its executive education division. Another important function of PON is "The Clearinghouse," which distributes instructional materials,

books, and videotapes on many aspects of ADR. Among these is the annually updated *Dispute Resolution Directory*, a guide to courses and training programs in the greater Boston Area.

For more information about these semester-long courses, contact the Program on Negotiation, 513 Pound Hall, Harvard Law School, Cambridge, MA 02318. Telephone: (617) 495-1684 ext 514; FAX: (617) 495-7818. Information is also available at the PON web site: <http://www.pon.harvard.edu/>.

For more information about executive education training programs, contact the Center for Management Research of Wellesley, Massachusetts. Telephone: (781) 239-1111.

## UNIVERSITY OF HOUSTON, A.A. White Dispute Resolution Institute

One of the training programs offered by the University of Houston's A.A. White Dispute Resolution Institute is ***Basic Mediation Training***. This forty-hour training program introduces participants to mediation as a method to resolve conflict through the use of lectures, discussion, role plays, and individual videotaped sessions, teaches the skills of mediation.

The A.A. White Dispute Resolution Institute, Inc. is a sec. 501(c)(3), non-profit corporation whose purposes are charitable, educational, and civic. The Institute was organized to foster public awareness and understanding of conflicts and conflict resolution and the impact of interpersonal disputes on society. The Institute also encourages broader understanding, development, and use of alternative means of dispute resolution. One important mission of the Institute is to study, analyze, and recommend dispute resolution procedures that will provide less costly and more expeditious access to justice. The Institute provides assistance to the courts in encouraging the early settlement of pending litigation. The Institute also provides assistance to educational institutions, including law schools, in the development and use of ADR concepts and procedures.

The Institute's by-laws specifically state it was created in order to "strive to reduce delay in the resolution of legal disputes through ADR; to reduce the cost of resolving legal disputes through ADR; to encourage the teaching of ADR procedures in schools." In addition, the Institute will assist any other organizations whose activities further, accomplish, foster, or attain any of these purposes.

For more information, contact Robyn Pietsch, University of Houston, 325 Melcher Hall, A.A. White Dispute Resolution Institute, College of Business Administration, Houston, TX 77204-6283. Telephone: (717) 743-4933; FAX: (713) 743-4934; Email: [rpietsch@uh.edu](mailto:rpietsch@uh.edu).

## Associations and Consulting Organizations

### **AMERICAN BAR ASSOCIATION - Section of Dispute Resolution (SDR)**

The American Bar Association's Section of Dispute Resolution (SDR) maintains a resource center offering technical assistance, conducting studies, and disseminating information concerning multi-disciplinary dispute resolution. SDR encourages community and state and local bar activities in dispute resolution, develops educational programs for the bar and judiciary, and works to expand law school curricula in dispute settlement techniques. In addition, each spring the SDR convenes a national dispute resolution conference which provides a meeting place for dispute resolution leaders, providers, consumers and scholars.

For more information, contact the American Bar Association, Section of Dispute Resolution, 740 - 15th Street, NW, Washington, DC 20005. Telephone: (202) 662-1680; Email: [dispute@ABANET.ORG](mailto:dispute@ABANET.ORG).

### **CDR ASSOCIATES**

Training programs offered by CDR Associates include:

#### ***The Mediation Process***

This seminar presents a step-by-step approach to the mediating process and emphasizes the concepts, strategies, and skills effective in resolving conflicts. The seminar includes several simulated mediation exercises in which participants can practice skills learned in the seminar under the supervision of experienced mediators/coaches. This 5-day seminar is designed for anyone who wants to learn or develop mediation skills. Program content includes analyzing the causes of conflict and learning strategies to manage them; structuring the mediation process through a step-by-step problem-solving procedure; negotiating strategies that lead to joint problem solving; communicating effectively as a mediator (listening, framing, and reframing); handling strong emotions that interfere with problem solving; exercising power effectively; responding to ethical dilemmas that arise in mediation; and implementing a mediation program as a private practitioner or as part of an organization's problem-solving process.

#### ***Mediating Workplace Disputes***

This 4-day seminar provides a step-by-step approach to mediation. Participants will engage in simulated mediation exercises under the supervision of trained coaches. The seminar emphasizes the mediation concepts, skills, and strategies necessary to resolve complex employee relations disputes. It is designed for human resource officers, managers, EEO specialists, and other staff, as well as representatives of labor-management councils, unions and other employee organizations. The content is applicable to business, industry, education, government agencies, community and religious organizations, and healthcare providers. Program content includes diagnosing and managing causes of conflict; identifying stereotypes and promoting an acceptance of differences; managing prejudice in mediation; negotiating successful solutions; communicating effectively as a dispute resolver; handling strong emotions, cultural differences and value disputes that interfere with problem solving;

healing situations involving sexual harassment; responding to ethical dilemmas that arise in mediation; and implementing a mediation program within an organization.

### ***Advanced Seminar for Experienced Mediators***

This 3-day seminar offers a directed and highly interactive setting to discuss experiences and ways to apply mediation principles and techniques. This seminar emphasizes the skills and techniques for resolving complex case issues. Trainers and participants will provide "real life" cases for instructor demonstrations, participant role plays, and conceptual and skill-based strategy discussions. The course offers a more in-depth opportunity for participants to learn from their successes and failures. Program content includes assessing mediator styles (rights versus interest-based, direct versus indirect, and other approaches); using reframing and other communication skills; getting parties to raise conflict productively; developing strategies for managing power imbalances; managing difficult mediation challenges (values disputes, complex data, use of experts, managing external pressures, dealing with intractable conflicts); and analyzing the challenges of multiparty disputes.

In addition to CDR's Boulder-based Public Training Seminars, CDR conducts seminars at sites selected to suit the specific needs of individual companies or organizations. CDR also conducts "training-for-trainers" for agencies and corporations who wish to develop their capabilities internally to train employees and associates. Custom-designed seminars have been developed and conducted for clients such as the Federal Reserve Board and the U.S. Army Corps of Engineers, among many others.

To obtain more information on CDR Associates course descriptions and services, contact CDR Associates, 100 Arapahoe Avenue, Suite 12, Boulder, CO. Telephone: (303) 442-7367; Toll-free: 1-800-MEDIATE; FAX: (303) 442-7442; Email: [cdr@mediate.org](mailto:cdr@mediate.org), web site: <http://www.mediate.org/>.

## **CONFLICT RESOLUTION EDUCATION NETWORK (CREnet)**

The Conflict Resolution Education Network (CREnet) is the successor organization to NIDR. It is the nation's largest membership association dedicated to making conflict resolution education an integral part of the educational process in every school. It is devoted exclusively to promoting innovation, excellence and public information in the area of conflict resolution education. Member services include a quarterly publication, The Fourth R; extensive practical web-based resources and access to research and relevant news articles for educators and practitioners and; and an annual conference.

For additional information, contact CREnet, 1527 New Hampshire Ave., NW, Washington, DC 20036; Telephone: (202) 667-9700; Fax: (202) 667-8629; E-mail: [membership@crenet.org](mailto:membership@crenet.org); Web site: <http://www.crenet.org/>.

## **CONFLICT WORKS**

Conflict Works has developed and implemented a unique approach to teaching conflict resolution skills to individuals and groups. Conflict Works conducts workshops to help people overcome their fear of conflict and train them to address and resolve conflict situations. It conducts workshops on employing effective conflict resolution skills in the

workplace for directors, managers, human resource personnel and agency supervisors. Conflict Works is available to facilitate and mediate disputes in the workplace. It can also tailor workshops in the area of dispute resolution to the needs of the particular clients. Workshops include:

***The Joy of Conflict: A Recipe for Resolving Disputes Creatively***

This workshop is for individuals who are interested in moving from avoiding conflicts to resolving them. Through discussion, role-plays, interactive exercises and utilizing participants' real-life conflicts, participants will learn a method for overcoming their fear and transforming conflicts into opportunities. The workshop is 12-15 hours in length and is limited to 15 participants.

***Group Dynamics: Turning Conflict to Opportunity in the Workplace***

This workshop is for agency directors, human resource personnel, managers and supervisors interested in learning conflict resolution skills in a work setting. Using a participatory format including role plays, interactive exercises and discussion, participants will learn skills which can be used to either mediate disputes or to coach employees to resolve their disputes without outside intervention. The workshop is 12-15 hours in length and is limited to 30 participants.

***Mediation 101: The Wave of the Future***

This workshop is for agency directors, managers, human resource personnel, and supervisors interested in learning traditional mediation skills to be used in the workplace setting. This workshop will introduce participants to the mediation model and provide on the job experience with role plays, discussion and interactive exercises. The workshop is 16-20 hours in length and is limited to 15 participants.

For more information, contact Conflict Works, c/o of Oran Kaufman, 190 University Drive, Amherst, MA 01002. Telephone: (413) 256-1575; Email: [mediate@BKBK.com](mailto:mediate@BKBK.com); FAX: (413) 256-1207; or Donna Jenson, 27 Laurel Hill Rd., Montague, MA 01351. Telephone: (413) 367-9661; FAX: (413) 367-9711.

## **COOPERATIVE CONSORTIUM FOR DISPUTE RESOLUTION**

The Cooperative Consortium for Dispute Resolution (CCDR), in conjunction with Florida Southern College and Accormend Associates, offers a five-day Mediation Training course designed to teach participants to apply sound mediation practices and principles while managing and resolving disputes. Additionally, CCDR provides a variety of customized ADR services to fit a particular situation, including problem-solving, factfinding, arbitration, and interest-based bargaining.

To obtain more information on the Cooperative Consortium for Dispute Resolution's course descriptions and services, contact CCDR/Accormend at Telephone: (301) 384-6557; FAX: (301) 384-3619; Email: [ccdr@olq.com](mailto:ccdr@olq.com).

## **COUNCIL OF BETTER BUSINESS BUREAUS, INC.**

Training programs offered by the Council of Better Business Bureaus, Inc. include:

### ***Mediation Training***

Intensive 40-hour training in interest-based mediation using a lecture, videotape, group activity and role play training format. Subjects covered include an overview of ADR, a six-stage mediation model, professional ethics and standards, and 14 specific mediator skills. It is designed for newcomers to mediation and those interested in enhancing their basic mediation skills. Although focused on business/consumer conflicts, the model is applicable to a wide variety of disputes.

### ***Arbitration Training***

Training is offered in both binding and conditionally binding arbitration. The binding training course is three days and the conditionally binding training is three and one half days. Both cover an overview of ADR; the arbitration process; factfinding skills; weighing evidence and writing decisions; and reasoning.

The *conditionally binding* training is focused primarily on auto manufacturer/consumer disputes and the *binding* training is more general. The training is designed for those with little or no arbitration experience.

The Council of Better Business Bureaus will also custom design training to address specific areas and applications of ADR.

For additional information, contact Annette Lee, Arbitrator Recruitment Coordinator, Dispute Resolution Division, Council of Better Business Bureaus, Inc., 4200 Wilson Boulevard, Arlington, VA 22203-1804. Telephone: 1-800-334-2406 or (703) 276-0100; FAX: (703) 525-1794; Email: [alee@cbbb.bbb.org](mailto:alee@cbbb.bbb.org); Web site: <http://www.adr.bbb.org/>.

## **FPMI COMMUNICATIONS**

Training programs offered by FPMI Communications include:

### ***Alternative Dispute Resolution***

An overview of two important aspects of Executive Order 12871 including uses, limitations, and techniques of Alternative Dispute Resolution (ADR); applying ADR to common workplace problems; differences between interest-based bargaining (IBB) and traditional bargaining; identifying labor relations issues for IBB; and setting criteria for possible solutions and agreements.

### ***Consensual Methods of Dispute Resolution***

Participants are provided with an enhanced capacity to deal successfully with conflicts and disputes rather than letting them degenerate into grievances or official complaints. Includes an introduction to dispute resolution, anatomy of conflicts, principles of consensus decision making, elements of effective interpersonal communications, interest-based problem solving, and grievance mediation as an ADR method.

### ***Dispute Mediation***

This in-depth seminar informs participants about the key principles involved in mediation, how mediation differs from other forms of ADR, and how to establish a program that will meet EEOC and related guidelines. This seminar trains participants in the skills necessary to

become a collateral-duty mediator. It emphasizes alternatives to MSPB, FLRA, EEOC, and arbitration procedures.

### ***Interest-Based Problem Solving***

This seminar shows how IBB principles can be used to solve a variety of non-labor-relations problems affecting employees, supervisors, managers, customers, and vendors. The seminar is designed for any federal employee or manager who wants to use IBB to solve work-related problems.

### ***Mediation Overview***

This seminar informs participants about the basic principles involved in mediation, how mediation differs from other forms of ADR, and how to establish a program that will meet EEOC and related guidelines. This seminar is not designed to train individuals in the skills necessary to become a mediator – FPPI's seminar, Dispute Mediation, is the appropriate vehicle for more extensive training in mediation.

### ***Counseling Techniques for EEO Practitioners***

This seminar is a 32-hour seminar that fully meets the prerequisites identified for EEO counselors by EEOC under Management Directive 110, as amended. The seminar has two primary objectives: 1) It gives counselors an overall view of the EEO process; and 2) It gives them detailed step-by-step guidance for handling and resolving complaints of discrimination at the informal and formal levels.

FPPI Communications offers both single -agency on-site seminars and open enrollment seminars for large and small groups. We also offer publications and consulting services in all aspects of alternative dispute resolution.

To obtain more information on FPPI Communications' training and related services, contact FPPI at 707 Fiber Street, Huntsville, AL 35801. Telephone: (256) 539-1850; FAX: (256) 539-0911; Web site: <http://www.fppi.com/>.

## **JUSTICE CENTER OF ATLANTA (JCA)**

The following training courses are offered by the Justice Center of Atlanta:

### ***Mediation of Workplace Disputes***

This is an intense three-day training course which is highly experiential using actual case demonstrations and roleplay activities to teach the particular mindset, language, and process skills unique to the mediation process. Training includes a focus on legal considerations in mediation as they pertain to issues arising from CFR Part 1614, Civil Rights Act of 1991, and ADR Act of 1996, as well as skills in communication techniques, negotiation strategies, and troubleshooting tips for mediators.

### ***Advance Mediation Training***

This is a two day training course designed for persons who have some experience mediating cases. This class focuses on enhancing the mediator's understanding and use of the mediation process. It includes a focus on advanced communication and negotiation strategies, multiparty disputes, and dealing with difficult people and complex issues.

### ***Clinical Practicum***

This is a two day training designed to provide new mediators with additional experience with the mediation process beyond the basic three-day certification class. Participants have the opportunity to be evaluated by two professional mediators in a mediation roleplay.

### ***Conflict Management for Managers***

A two day training designed for managers who want to gain additional skills at handling conflict in the workplace. Emphasis is placed on understanding the development and dynamics of conflict. The focus will be on using interest based communication techniques.

### ***Conflict Management Seminar***

This is a one day seminar addressing the origins of conflict and the dynamics of conflict within an organization. Attention is given to what blocks communication and what promotes communication, including exercises on interest based problem solving.

Courses are held at JCA's training facilities in Atlanta and all over the world at the request of the sponsoring agency. Class size ranges from 15-54 participants with a low trainer to trainee ratio. Highly individualized instruction is, therefore, provided.

For further information on training courses and fees, contact: Christine Colcord, JCA, 976 Edgewood Avenue, NE, Atlanta, Georgia 30307. Telephone: (404) 523-8236 ext. 236; FAX: (404) 523-3936; Email: [christine@justicecenter.org](mailto:christine@justicecenter.org); Website: [www.justicecenter.org](http://www.justicecenter.org).

## **VIRGINIA MEDIATION SERVICE**

Training programs offered by the Northern Virginia Mediation Service include:

### ***Basic Mediation Skills and Process***

This interactive 3-day program teaches practical and effective mediation skills applicable to many fields. The course is taken by district court mediators, lawyers, therapists, government employees and other professionals each year. Approved for Virginia mediator certification.

### ***Conflict Resolution 101***

This full-day program is for those looking for a practical, hands-on introduction to conflict resolution skills. Small business partners and managers will work more smoothly and effectively, supervisors will improve staff interaction and problem-solving and parents, teachers, administrators, etc. will have a new framework for developing constructive relationships, conserving time and energy and improving decision-making. This course will cover the underlying causes of conflict; conflict management styles; avoiding common communication mistakes; effective communication and problem-solving skills; identifying group processes for conflict prevention and resolution; ingredients for durable agreements and win-win outcomes; and advanced skills in reframing conflict and interest based negotiations.

### ***Designing Conflict Management Systems For Organizations***

In this 1-day course, managers, supervisors, ADR professionals, human resource and labor-

management personnel will learn to design conflict management systems for use in corporations, government, and other workplaces.

#### ***Facilitation & Group Consensus Building***

Learn and practice the techniques and skills necessary to professionally structure, facilitate and build consensus within meetings, conferences and multi-party decision making groups. Also approved for 16 of the 24 hours required for Virginia's Advanced Certificate in Civil Mediation.

#### ***Federal Mediation Role-Play***

This intensive two-day course is approved to meet the general mediator certification requirement for the observation of two cases. Prior mediation knowledge or experience is required.

#### ***How To Mediate EEO And Other Employment Disputes***

This course provides in-depth, hands-on-training on the special aspects of mediating public and private sector employment disputes. It includes information on discrimination, ethics, system design and intake issues. Outstanding faculty make this an exciting day.

#### ***Negotiation Skills***

A 2-day program for attorneys, business people, government employees and others who must be successful when they negotiate. This is an interactive workshop of realistic exercises and simulations which will cover understanding how people make decisions in negotiation; developing skills in persuading, convincing and influencing; learning to produce agreements that people will carry out; and developing effective strategies for dealing with difficult negotiators.

For further information on training courses and fees, contact Carole Dowd, Training Coordinator, Northern Virginia Mediation Service, C/O Institute for Conflict Analysis & Resolution, George Mason University, 4260 Chain Bridge Road, Suite A-2, Fairfax, VA, 22030. Telephone: (703) 759-9720; office staff at (703) 993-3274 or 3656; FAX: (703) 993-3551; Web site: <http://www.gmu.edu/departments/nvms>.

### **PART III. ADR Videotapes**

The following videotapes can be obtained from the Department of Justice, Office of Legal Education Institute, Attention: Sheila Cook, 1620 Pendleton Street, Columbia, SC 29201; Telephone: (803) 544-5121; FAX: (803) 544-5110; Email: [sheila.cook@usdoj.gov](mailto:sheila.cook@usdoj.gov); Web Site: [www.usdoj.gov/usao/eousa/ole](http://www.usdoj.gov/usao/eousa/ole).

#### **Effective Negotiation Techniques**

This one-day videotape explains the benefits of getting background information, holding practice negotiation sessions, and creating the proper atmosphere for negotiation participants.

Topics include: preparing for negotiations; strategy and tactics in negotiations; and psychological factors in negotiations. Time: 2 hours 30 minutes.

### **The Strategy and Art of Negotiating**

This one-day program is presented by expert panelists who present practical information and new insights on effective negotiating approaches, strategies, and methods. They analyze various dramatized negotiating styles and present proven techniques. They discuss how to establish a positive climate and philosophy for negotiating, how to distinguish between positions and interests, when to take control, and how to avoid misrepresentation. Time: 3 hours 30 minutes.

### **What Every Litigator Should Know About Mediation**

This half-day program is a practical guide for litigators. It includes discussions and demonstrations addressing: What mediation is and when you should use it, how to prepare your client and yourself for mediation, and how to represent your client during mediation. Time: 3 hours 30 minutes.

### **Mediating Workplace Disputes[Under Development]**

The video is under development by the Human Resources Service Center, Pacific Training and EEO, Department of Navy personnel who are working with the Neighborhood Justice Center of Honolulu and the Department of Navy ADR Program Coordinator on the project. It is intended to educate the workforce about ADR and encourage the use of mediation to resolve workplace disputes. Time: Approximately 45 minutes.

For information contact Department of Navy, Cindy Pierson; Telephone: (808) 471-1342; FAX: (808) 471-3798; Email: [cynthia\\_pierson@pac.hroc.navy.mil](mailto:cynthia_pierson@pac.hroc.navy.mil).

## **PART IV. Periodicals & Newsletters**

### **AMERICAN ARBITRATION ASSOCIATION (AAA)**

#### **Dispute Resolution Journal**

Published quarterly by the American Arbitration Association, this journal provides in-depth articles by leading practitioners and scholars that cover the spectrum of ADR issues, emerging techniques, and new applications of ADR processes in every area of commercial and labor practice. Winner of the 1998 Gold Excel Award for General Excellence - Scholarly Journal, by the Society of National Association publications. For more information and costs, contact: American Arbitration Association, 335 Madison Avenue, New York, NY 10017. Telephone: (212) 716-3968; FAX: (212) 716-5906; or Web site: <http://www.adr.org/>.

#### **Dispute Resolution Times.**

Published quarterly, the AAA's newspaper reports on ADR developments and AAA initiatives, new programs, new rules, significant court decisions, special events and conferences. Features are national and international scope. For more information and costs,

contact: American Arbitration Association, 335 Madison Avenue, New York, NY 10017.  
Telephone: (212) 716-3968; FAX: (212) 716-5906; or Web site: <http://www.adr.org>.

## **COOPERATIVE CONSORTIUM FOR DISPUTE RESOLUTION (CCDR)**

### **Practical Dispute Resolution.**

Published semi-annually, this journal features articles, reviews and summaries which inform the general dispute resolution community of practical issues, developments and concerns in the field. If you are interested in receiving a copy and/or subscribing, please send your name and address to the Cooperative Consortium for Dispute Resolution (CCDR), P. O. Box 4774, Crofton, MD 21114-4744; Email: [ccdr@olg.com](mailto:ccdr@olg.com).

## **DEPARTMENT OF DISPUTE RESOLUTION SERVICES, SUPREME COURT OF VIRGINIA**

### **Resolutions.**

This free quarterly publication covers a broad spectrum of topics with respect to current issues related to dispute resolution services in Virginia, the practice of mediation, and other ADR. This Department of the Supreme Court of Virginia is responsible for the certification of court-referred mediators in Virginia. Each issue of *Resolutions* includes a Training Calendar, a great resource for those interested in receiving mediation training, both basic and advanced. For copies of this publication, contact: Melanie Rinehults at the Supreme Court of Virginia, Office of the Executive Secretary, Department of Dispute Resolution Services, 100 N. Ninth Street, Third Floor, Richmond, VA 23219. Telephone: (804) 786-6455; FAX: (804) 786-4760; Web site: <http://www.courts.state.va.us/>.

## **Section VI: ADR Web Sites**

This section contains selected web sites that provide miscellaneous resource information about the use of ADR in the resolution of workplace disputes. Some sites describe working Federal agency ADR programs. These sites are maintained by associations, government agencies, non-profit organizations, and others. [This listing is not exhaustive and does not indicate endorsement by the U.S. Office of Personnel Management of ADR services that might be offered by that site.]

## **GOVERNMENT AGENCIES**

### *Department of Agriculture*

<http://www.usda.gov:80/cprc/>

Describes agency's Conflict Prevention and Resolution Center.

### *Department of Air Force*

<http://www.adr.af.mil>

Describes Air Force ADR program wide range of ADR resources.

***Defense Logistics Agency***

<http://www.dscc.dla.mil/offices/doccr/adr/adr.html>

Describes DLA ADR program.

***Department of Education***

[http://www.ed.gov/databases/ERIC\\_Digests/ed338791.html](http://www.ed.gov/databases/ERIC_Digests/ed338791.html)

Provides information on educational resources and guidelines on dealing with conflict resolution within educational institutions.

***Department of Energy***

<http://www.doeal.gov/oeo/summaryl.pdf>

Discusses Albuquerque Operations Office Mediation Program.

***Equal Employment Opportunity Commission***

<http://www.eeoc.gov>

Provides information about the use of ADR in the EEO complaint/appeal process.

***Federal Labor Relations Authority***

<http://www.flra.gov>

Provides information about the use of ADR in FLRA appellate matters.

***Department of Health and Human Services***

<http://os.dhhs.gov/progorg/dab/>

Discusses agency's Departmental Appeals Board and ADR services provided.

***Federal Mediation and Conciliation Service***

<http://www.fmcs.gov/pubinfo/cameos/fy98/adr.htm>

Discusses ADR services offered.

***General Services Administration***

<http://fedlaw.gsa.gov/legal89.htm>

Provides links to laws, regulations, and other ADR-related sites, including the GSA Board of Contract Appeals ADR process.

***Department of Justice***

<http://www.financenet.gov/financenet/fed/iadrwg>

Provides ADR resource information and the latest activities of the Attorney General's Interagency Alternative Dispute Resolution Working Groups.

***Department of Labor***

<http://www.dol.gov/dol/asp/public/programs/adr/main.htm>

Provides overview of DOL's ADR Activities and DOL's ADR Policy.

***Department of Navy***

<http://www.adr.navy.mil/>

Describes Navy's ADR program and ADR initiatives, and successful tips and techniques.

### ***Merit Systems Protection Board***

<http://www.mspb.gov>

Provides information about agency's appellate jurisdiction case processing and the agency's latest ADR initiatives.

### ***Office of Personnel Management***

<http://www.opm.gov/er>

Contains OPM's *ADR Resource Guide* and describes the Management Development Centers' ADR training offerings.

### ***Office of Special Counsel (OSC)***

<http://www.osc.gov>

Provides information about prohibited personnel practices, Hatch Act, and other disputes within the agency's jurisdiction.

### ***Department of Veterans Affairs***

<http://www.va.gov/adr/ocgdir.htm>

Describes DVA's policy concerning the use of ADR.

## **Federal Executive Board (FEB) Web Sites:**

Many FEBs have ADR Committees and some coordinated shared neutrals programs in their specific FEB geographical areas. FEBs are resources for those wanting to set up shared neutrals programs or use the services of such programs coordinated by FEBs.

- Buffalo, NY - <http://www.buffalo.feb.gov>
- Boston, MA - <http://r1.1k.gsa.gov/gbfeb>
- Chicago, IL - <http://www.chicago.feb.gov>
- Cincinnati, OH - <http://www.cincinnati.feb.gov>
- Cleveland, OH -  
<http://www.grc.nasa.gov/WWW/OHR/FEB/index.htm>
- Dallas - Ft. Worth, TX -  
<http://www.epa.gov/earth1r6/6md/feb/index.htm>
- Denver, CO - <http://www.dfeb.mms.gov>
- Honolulu-Pacific, HI - <http://www.honolulu-pacific.feb.gov>
- Kansas City, MO - <http://www.kansascity.feb.gov>
- Los Angeles, CA - <http://www.losangeles.feb.gov>
- Twin Cities, MN - <http://www.doi.gov/febtc>
- New Orleans, LA - <http://www.nfc.usda.gov/feb>
- Oklahoma City, OK - <http://www.ok.feb.gov>
- Philadelphia, PA - <http://tsd.r3.gsa.gov/feb.htm>
- Pittsburgh, PA - <http://www.pittsburgh.feb.gov>
- San Antonio, TX - <http://www.sanantonio.feb.gov>

- San Francisco, CA - <http://www.gsa.gov/r9feb>
- Seattle, WA - <http://www.seattle.feb.gov/mediation.htm>

**Note:** The above FEB web addresses are undergoing change. The most current websites can be located on OPM's home page at <http://www.opm.gov/feb/index.htm#febweb>.

## **ASSOCIATIONS, NON-PROFITS, AND OTHERS**

### ***American Arbitration Association***

<http://www.adr.org/>

Provides a list of AAA periodicals that address latest ADR developments.

### ***American Bar Association (Section of Dispute Resolution)***

<http://www.abanet.org/dispute/home.html>

Provides information on ABA ADR initiatives, including the *Dispute Resolution Magazine* and links to other ADR sites.

### ***CPR-Institute for Dispute Resolution***

<http://www.cpradr.org/welcome.htm>

Provides information about a non-profit alliance of corporations and firms using ADR.

### ***Justice Center of Atlanta***

<http://www.justicecenter.org>

Provides information about ADR services provided.

### ***Law Journal EXTRA***

<http://www.ljextra.com/practice/arbitration/index.html>

Includes links to articles on ADR.

### ***Mediation Information and Resource Center***

<http://www.mediate.com>

Provides a list of mediator resources and mediation information.

### ***National Institute for Dispute Resolution (NIDR)***

<http://www.crenet.org/index.htm>

Contains a compilation of ADR training courses and conferences.

### ***Northern Virginia Mediation Service***

<http://www.gmu.edu/departments/nvms>

Provides information on ADR education and services.

### ***Society of Professionals in Dispute Resolution (SPIDR)***

<http://www.spidr.org/pubs.htm>

Lists available SPIDR publications.

## SECTION VII

### Bibliography

The following is an annotated selection of books, articles, and other aids that may be useful for Federal agencies and unions considering or using ADR methods or techniques. Some of the sources describe theories behind ADR, and others describe ways of implementing ADR, including various examples of ADR techniques. Most of the resources provide bibliographies for further investigation.

### ARTICLES

Albrecht, Karl and Steve Albrecht, "***Added Value Negotiating***," *Training*, April 1993, Vol. 30(4), pp. 26-29.

This article describes a process of adding value to a deal rather than extracting or conceding value from one party to the other. A method of interest-based or win-win negotiating, Added Value Negotiating (AVN) uses the idea of "multiple deals." Several deal packages are offered in a multiple choice format, rather than a single position which can be beaten into some mutually accepted final agreement. Each alternative is based on a mutual understanding of interests and the options that can meet these interests. The system is based on the assumption that most people do want to negotiate cooperatively. Most want a good deal as well as a good relationship, and recognize that the parties may have to do business again. The other fundamentals of AVN, besides clarifying interests and identifying options, include designing alternative deal packages, selecting a deal, and perfecting the deal.

Bolb, Deborah M. and Susan S. Silbey, "***Enhancing the Capacity of Organizations to Deal with Disputes***," *Negotiation Journal*, October 1990, Vol.6(4), pp. 297-305.

The authors provide a "how to" for integrating dispute resolution methods into an already existing system. This article considers the "enhanced capacity" for tolerating disputes instead of promoting dispute prevention.

Cameron, Chip, Philip J. Harter, Gail Bingham, Neil R. Eisner, "***Alternative Dispute Resolution with Emphasis on Rulemaking Negotiation***," *The Administrative Law Journal*, Spring 1990, Vol. 4(1), pp. 83-111.

This is a report on a discussion among the authors at the First Annual Review of the Administrative Process of the Federal Bar Association and the Washington College of Law. It includes comments on how negotiated rulemaking works, a list of criteria for a successful rulemaking, some pitfalls in managing the process, and comments and suggestions from practical experience.

Carr, Frank, "***Alternative Dispute Resolution***," *Federal Bar News & Journal*, August 1993, Vol.40(7), pp. 444-447.

This article describes a creative approach to resolving disputes as an alternative to litigation. The author goes through a step-by-step approach that provides a structure for developing any ADR program. The outline includes: needs analysis, systems design, pilot testing system, evaluation, and program implementation.

Carr, Frank, "***Alternative Dispute Resolution in an Agency Program***," *Board of Contract Appeals Bar Association Quarterly Magazine*, Winter 1990, Vol. 1(2), pp. 11-15.

An examination of the implementation of the U.S. Army Corps of Engineers ADR program is provided. The Corp's chief trial attorney comments on the decision to experiment with ADR and discusses the development of ADR into a formal program for dispute resolution. The paper addresses some of the problems encountered and how they were resolved.

Cohen-Rosenthal, Edward, "***Commentary...Employee Participation Councils***," *Journal for Quality and Participation*, September 1992, Vol. 15(5), pp. 88-89.

Cohen-Rosenthal makes a case for legislating a requirement that every organization with 50 or more employees have councils of employees and/or their representatives and management officials. These councils would be strictly advisory and would discuss a broad range of issues. Excluded from discussions would be the negotiation of wages, hours, and job classifications. The primary motivation for this policy suggestion is the need to confront the U.S.'s anemic economy and lagging global competitiveness, according to the author. Germany and Japan are cited as examples of successful employee participation systems. The authors contend that a national policy would not assure universally excellent participation, but would expand opportunities for participation, impact competitiveness dramatically, and deepen our national values of democracy.

Combe, George W. Jr., "***Anatomy of a Business Dispute: Successful ADR Analysis by the Office of the General Counsel***," *Arbitration Journal*, September 1990, Vol. 45(3), pp. 3-14.

This journal article provides an analysis of the nature of business disputes. It presents considerations in using an ADR approach in a business situation, lists steps to enhance institutional ADR commitment, and provides factors to consider in ADR selection. Two case problems are analyzed.

Costantino, Cathy A, "***FDIC Uses Spectrum of ADR Options to Resolve Disputes: Finding New Ways to Decrease Costs, Speed Resolutions, and Maximize Recoveries***," *Federal Bar News & Journal*, October 1992, Vol. 39(9), pp. 524-527.

The Federal Deposit Insurance Corporation (FDIC) has adopted policies and procedures which allow and encourage the use of ADR to resolve a variety of disputes. The article reviews ADR processes and discusses the history, goals, objectives, and seven components of the ADR program at the FDIC.

Crowell, Eldon H. and Charles Pou, Jr., "***Appealing Government Contract Decisions: Reducing the Cost and Delay of Procurement Litigation with Alternative Dispute Resolution Techniques***," *Maryland Law Review*, Vol. 49(1), pp. 183-254.

The pros and cons of ADR in government contract disputes are examined in this article. It includes the experiences of government agencies that have used minitrials in contract disputes. It also addresses questions concerning the use of neutrals.

Ferris, Frank D, "***Labor Relations: A Conflict Trap***," *The Bureaucrat: The Journal for Public Managers*, Spring 1991, Vol. 20(1), pp. 47-51.

The author is the director of negotiations for the National Treasury Employees Union (NTEU). The article outlines ways in which conflict between management and labor has been handled under Title VII of the Civil Service Reform Act and offers some alternative methods for dispute resolution. He proposes an increase in facilitated brainstorming, improved communications, experimentation, and help rather than threats and expedient compromises. Imposed agreements, if needed, would come at the end of intensified intervention and be based on what had been built by the parties. Grievances should be treated as opportunities to enhance relationships and adjust the organization to changes.

Hoffman, Eileen Barkas and John A. Wagner, "***Courtbusters***," *Government Executive*, October 1993, pp. 29.

The authors give an overview of ADR. They describe how ADR has grown and give the pros and cons that the ADR offers to its users.

Honeyman, Christopher, "***On Evaluating Mediators***," *Negotiation Journal*, January 1990, Vol. 6(1), pp. 23-36.

This article is helpful for evaluating mediators and selecting standards for further training. It lists "Seven Parameters of Effectiveness" with commentary. It is a thoughtful introduction to the complex topic of using subjective criteria.

Lewin, David, and Daniel J.B. Mitchell, "***Systems of Employee Voice: Theoretical and Empirical Perspectives***," *California Management Review*, Spring 1992, Vol. 34(3), pp. 95-111.

This article is a comprehensive review of the various forms in which employee participation occurs. Most interesting are studies which found that in production facilities lower numbers of grievances were related to higher rates of productivity. Also noteworthy are studies which show that not only were high grievance rates related to low productivity, but also related to high unit production costs.

Meltzer, D. Leah, "***The Federal Workplace Ombuds***," *Ohio State Journal on Dispute Resolution*, Vol. 13(2), 1998, pp. 549-609.

This article discusses the ADR technique of ombudsing and how it works. The article also reports the results of the author's survey of Federal Government agencies who have an ombuds programs. The author describes selected Federal agency ombuds programs in detail including why they were set up and how they are working.

Merchant, Christina Sickles, "***Labor-Management Cooperation in the Federal Service***," *Federal Labor Relations Reporter*, August 17, 1992, Vol. 1(14B), pp. 92/29-92/32.

A strictly adversarial and rights-based approach to problem-solving in labor-management relations creates uncompromising and unyielding positions. This approach can be both very time consuming and costly. As union-management relations mature, the parties will look for other avenues to address problems such as ADR and labor-management cooperation. The author emphasizes that the measure of labor-management cooperation success is not necessarily a decrease in the number of unfair labor practices or grievances filed, but an improvement in the overall health and quality of the relationship including improved communications.

Patterson, Roger J., "***Dispute Resolution in a World of Alternatives***," *Catholic University Law Review*, Spring 1988, Vol. 37(3), pp. 591-604.

A concise introduction to ADR. It describes the concept, offers pertinent explanations of a range of alternatives and their uses, and concludes with a discussion on the choices of alternatives in dispute resolution. The author sees ADR as an alternative to, not a displacement of, litigation.

Pritzker, David M., "***Working Together for Better Regulations***," *Natural Resources and Environment*, Fall 1990, Vol. 5(2), pp. 29-31.

A description of the negotiated rulemaking process, reasons for using it, and potential costs and benefits. The article discusses when and how to

use the process, reviews agency experiences, and examines relevant Federal legislation.

Rivenbark, Leigh, "***Seattle Agencies Try Mediating Differences***," *Federal Times*, April 19, 1993.

For the first time, a Federal Executive Board (FEB) will provide official mediation services to agencies and individual employees wanting to settle disputes outside of the courts and adjudicatory agencies. Seattle's FEB is poised to start providing mediation as soon as 24 employees from a variety of grades and agencies complete an intensive training course.

Sander, Frank E. A. and Stephen B. Goldberg, "***Making the Right Choice***," *ABA Journal* November 1993, pp. 66-68.

Using a hypothetical dispute, Sander and Goldberg analyze which ADR procedures would most likely satisfy different clients' goals, and if settlement is sought, which procedures would most likely overcome settlement obstacles.

Society for Professionals in Dispute Resolution, "***Qualifying Neutrals: the Basic Principles***," *Dispute Resolution Forum*, May 1989, pp. 2-10.

This article examines the criteria for qualifying neutrals. It elaborates on central principles for parties to use as guidelines.

Stulberg, Joseph B. and B. Ruth Montgomery, "***Design Requirements for Mediator Development Programs***," *Hofstra Law Review*, Spring 1987, Vol 15(3), pp. 499-533.

The authors examine how an agency that administers an ADR program can train persons to serve as competent mediators. The authors use the neighborhood justice centers operating throughout the country as the basis of analysis in developing a framework for developing programs to train facilitators. This article offers a practical, step-by-step analysis of the mediator's functions and considers the dimensions of a mediator development program.

Thompson, Brad Lee, "***Negotiation Training: Win-Win or What?***," *Training*, June 1991, Vol. 28(6), pp. 31-35.

Empowered employees are not always prepared for the new ways of working with each other, according to the author. They may be ill-prepared to participate in discussions and decisions that are normal in day-to-day business operations. Personal negotiations training, specifically the interest based approach, is a helpful method of preparing empowered employees for a new working mode of operations. Interest-

based negotiation skills are critical for employees who may be working in quality teams or circles, self-managing work groups, and other types of teams. This article addresses the training of personal negotiation skills which includes interpersonal communication, listening and feedback, influencing, facilitation, conflict resolution, and problem-solving.

Ury, William L., Jeanne M. Brett, and Stephen B. Goldberg, "***In Practice: Designing an Effective Dispute Resolution System***," *Negotiation Journal*, October 1988, pp. 413-431.

This article is an adaptation of Chapter 3 of the authors' book, *Getting Disputes Resolved*, published by Jossey Bass, in November 1988. The article presents six crucial principles of ADR: put the focus on interests; build in "loop-backs" to negotiation; provide low-cost rights and power back-ups; build in consultation before, feedback after; arrange procedures in a low-to-high-cost sequence; and provide the necessary motivation, skills, and resources.

Zetlin, Minda, "***A Neutral Third Party***," *Management Review*, September, 1992, Vol. 81(9), pp. 50-53.

As a form of ADR, the corporate ombudsman is becoming a more popular method of resolving workplace problems and avoiding litigation and its associated costs, according to the author. Managers have found that the availability of ombudspersons in an organization can increase morale and productivity. In 1991, an MIT survey found that companies had saved \$125,000 on average in lawsuits in which an ombudsperson had intervened. The ombudsperson provides the organization with information about the workplace that is timely, something that many surveys cannot accomplish. They can show the good as well as the bad. The ombudsperson's role is not that of an employee advocate, but one of a principled neutral third party. They are not arbitrators, but mediators who must seek agreement between disputing parties. Most are careful to steer clear of items covered in union contracts.

## **BOOKS AND REPORTS**

American Arbitration Association (AAA), ***Grievance Mediation Procedures***, AAA, New York, December 1992.

This pamphlet lists all AAA offices and provides a detailed review of the grievance mediation procedures used by AAA mediators. One of the advantages of mediation according to this publication is that it can be scheduled early in a dispute. A settlement can be reached much more quickly and at less cost than through litigation.

American Arbitration Association (AAA), ***Resolving Your Disputes***, AAA, New York, April 1993.

This pamphlet lists all AAA offices and provides definitions of ADR terms and explanations of related issues.

American Bar Association, *Alternative Dispute Resolution: An ADR Primer*, Standing Committee on Dispute Resolution, 3rd edition, ABA Standing Committee on Dispute Resolution, Washington, DC, 1989.

This report answers twenty basic questions on ADR, including a brief exposition on ADR and the basic processes. It addresses such issues as fees, discovery, power disparity, and confidentiality.

Carpenter, Susan L. and W.J.D. Kennedy, *Managing Public Disputes: A Practical Guide to Handling and Reaching Agreements*, Jossey-Bass Publisher, San Francisco, 1988.

This step-by-step guide to building a collaborative process in public policy disputes is written for decision makers in the public and private sectors. It offers explicit suggestions for conflict analysis and assessment that can be applied to other types of disputes.

Cochrane, Michael G. ed., *Attorneys General and New Methods of Dispute Resolution*, the American Bar Association, Standing Committee on Dispute Resolution and the National Association of Attorneys General, Washington, DC, 1990.

This is a collection of articles on various issues in ADR from different perspectives. The articles are organized under the division headings "Background to Dispute Resolution," "New Methods of Dispute Resolution at Work," and the "The Cutting Edge of Dispute Resolution: New Developments." Among the articles are: "Alternative Dispute Resolution in Environmental Cases," "Alternative Dispute Resolution," and "Transportation: Mediating Peace at the Battle of Peters' Creek."

Costantino, Cathy, A. and Merchant, Christina, S. *Designing Conflict Management Systems*, Josey-Bass Publisher, 1996.

The authors use three composite case studies from the health care, government, and manufacturing sectors, plus numerous charts and checklists that show how to get programs launched and evaluate how they're working.

Edelman, Lester, Frank Carr, and James L. Creighton, *The MiniTrial*, Alternative Dispute Resolution Series, IWR Pamphlet-89-ADR-P-1, U.S. Army Corps of Engineers Institute for Water Resources, Fort Belvoir, VA, 1989.

A practical guide to using the minitrial from the experience of the U. S. Army Corps of Engineers. This monograph describes what the technique

is and how it has been used, and provides guidance on conducting the process. The appendix includes a sample agreement.

Edelman, Lester, Frank Carr, Charles Lancaster, and James L. Creighton, ***Non-Binding Arbitration***, Alternative Dispute Resolution Series IWR Pamphlet 90-ADR-P-2, U.S. Army Corps of Engineers Institute for Water Resources, Fort Belvoir, VA, 1990.

This is a companion to the minitrial paper described above. It explains the Corps experience and gives a step-by-step outline for using this process. The appendix includes a sample agreement.

Fine, Erika S. and Elizabeth S. Plapinger, eds. for the CPR legal Program, ***Containing Legal Costs: ADR Strategies for Corporation, Law Firms, and Government***, Butterworth Legal Publishers, 1988.

This is a collection of articles on implementation by experienced attorneys and practitioners. It covers specific types of disputes such as employment and technology disputes. See especially "Corporate Responses: Institutionalizing ADR," "Litigation Management," and "The Federal Government's Use of ADR."

Fisher, Roger and William Ury, ***Getting to Yes: Negotiating Agreement Without Giving In***, Penguin Books, New York, 1981.

This is the book that began the modernization of negotiation with the creation of win-win, interest or principle based negotiations, from the Harvard Negotiation Project. It details: how to separate the people from the problem; focus on interests, not positions; establish precise goals at the outset of negotiations; work together to create options that will satisfy both parties; and negotiate successfully with opponents who are more powerful, refuse to play by the rules, or resort to "dirty tricks."

Folberg, Jay and Alison Taylor, ***Mediation: A Comprehensive Guide to Resolving Conflicts without Litigation***, Jossey-Bass Publishers, San Francisco, 1984.

The authors present a framework for effective mediation for professionals who desire to integrate mediation into existing roles. This work presents the various stages of mediation and discusses concepts for skills building.

Gary, Barbara, ***Collaborating: Finding Common Ground for Multiparty Problems***, Jossey-Bass Publishers, San Francisco, 1989.

This work presents an approach to confronting problems and polarized legal or political issues. It describes problem sharing and conflict resolution as collaboration and offers well-organized and specific information for understanding and evaluating the resolution process. It

includes case studies and covers such issues as when not to collaborate, how to ensure compliance, and how to determine the mediator's role.

Goldberg, Stephen B., Eric D. Green, and Frank E.A. Sander, *Dispute Resolution*, Little, Brown and Company, Boston, 1985.

Intended for use in a basic course on dispute resolution, this book provides an overview and examines the processes. The case studies and examples of dispute resolution application give insight into practical uses of ADR.

Jandt, Fred E., and Paul Gillette, *Win-Win Negotiating: Turning Conflict into Agreement*, John Wiley & Sons, New York, 1985.

This book provides a different perspective on interest-based bargaining from that of Fisher and Ury, authors of "Getting to Yes." Jandt recommends a more direct and head on approach to negotiations in chapter nine, "Getting Past 'Yes'." He states that "you can't negotiate agreement without giving in; and that if you never give in, you're not negotiating, you're merely forcing the other folks to bend to your will." Also provided in this book is a discussion on the nature of conflict, why conflict is not necessarily bad, and strategies or approaches to different sources of conflict.

Kanowitz, Leo, *Cases and Materials on Alternative Dispute Resolution*, West Publishing Co., St. Paul, Minn., 1986.

Designed as a law school text book, this work includes sections on the various processes. The appendices include some pertinent Federal and state statutes and regulations.

Lancaster, Charles L., *ADR Round Table: U.S. Army Corps of Engineers*, Alternative Dispute Resolution Series, IWR Working Paper 90-ADR-WP-1, U.S. Army Corps of Engineers Institute for Water Resources, Fort Belvoir, VA, 1990.

This report addresses major perceived obstacles to implementing ADR and strategies to overcome them. It also lists practical suggestions for implementing ADR.

Lax, David and James. K. Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain*, The Free Press, New York, 1986.

The authors make the connection between negotiation and management in accepting negotiation as a way of life for the successful manager. Written from the perspective of the manager in the middle, it discusses dispute resolution from negotiations to systems change.

Levinson, Daniel R., G. Jerry Shaw, Christopher M. Okay, ***Using Alternative Dispute Resolution in the Federal Government***, FPMI Communications, Huntsville, AL, 1993.

This report gives detailed information in describing the building blocks of ADR and the resolution methods. It describes ADR programs that executive agencies use. It also reviews how the judiciary and the legislative branches are incorporating ADR into their organizations.

Moore, Christopher, ***The Mediation Process: Practical Strategies for Resolving Conflict***, Jossey Bass, San Francisco, CA, 1996.

This book on the mediation process has been one of the best-selling books on the subject since Fisher and Ury's *Getting to Yes*. For the last decade, the book has been a leading text on mediation in law, other professional schools, and universities. The expanded 1996 second edition includes more diverse areas of practice, new strategies and procedures, and provides insights on intercultural approaches to dispute resolution.

Moore, Christopher and Jerome Delli Priscoli, ***The Executive Seminar on Alternative Dispute Resolution (ADR) Procedures: the U.S. Corps of Engineers***, CDR Associates, Boulder, 1989.

Designed as part of an intensive training course for agency executives, this material presents the spectrum of ADR processes, concepts, and skills as an adjunct to general management techniques.

Potapchu, William R., James H. Laue, and John S. Murray, ***Getting to the Table***, IWR Working Paper 90-ADR-WP-3, U.S. Army Corps of Engineers Institute for Water Resources, Fort Belvoir, VA, 1990.

This is a guide to designing a process for getting the parties of a dispute to an acceptable forum as the first step in an ADR procedure. It presents cases and guidance for step-by-step analysis and procedure and a variety of approaches to overcoming obstacles to getting parties together initially. The appendices include a "Guide to Situation Assessment" and "Sample Protocol."

Singer, Linda R., ***Settling Disputes: Conflict Resolution in Business, Families, and the Legal System***, West view Press, San Francisco, 1990.

An effective overview of ADR in a variety of settings, this work discusses the advantages and disadvantages of ADR from the perspective of potential participants and others affected. See especially the chapters on "Settling Business Disputes", "Settling Public Disputes," and "ADR and the Legal System."

Susskind, Lawrence and Jeffrey Cruikshank, ***Breaking the Impasses: Consensual Approaches to Resolving Public Disputes***, Basic Books, Inc., New York, 1987.

Consensus-building strategies to effect win-win solutions to conflicts are described. This is a practical guide on ADR procedures, from unassisted negotiation to assisted processes, written specifically for public officials.

Ury, William, ***Getting Past No: Negotiating with Difficult People***, Bantam Books, New York, 1991.

From the co-author of *Getting to Yes* and a member of the Program on Negotiation at Harvard Law School, this book continues the interest or principle-based bargaining strategy. It focuses on negotiating with people who don't really want to negotiate. It provides methods for dealing with obstacles to negotiations such as disarming tough bargainers, dodging dirty negotiation tricks, reframing rather than rejecting, and making it hard for the other party to say no. The objective of this style of bargaining is to bring the other side to its senses, not its knees.

U.S. Department of Labor, ***Committee Effectiveness Training: Skill Building for Labor-Management Groups***, Bureau of Labor-Management Relations and Cooperative Programs and the Government Printing Office, BLMR, Washington, DC, 1991.

Developed in collaboration with the Federal Mediation Conciliation Service, this guidebook provides a very comprehensive system to develop better labor-management relations. Included are methods for assessing ones needs, developing consensus, transforming barriers into objectives, establishing ground rules, running effective meetings, group problem solving, improving communications, and sharing leadership. Trainer's resources and slides are included for those who wish to designate an in-house trainer.

U.S. Office of Personnel Management, ***Federal Labor-Management Cooperation: A Guide to Resources***, Office of Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Washington, DC, July 1993.

This guide is useful as a primer to labor-management cooperation and ADR. It includes a list of Federal sources of training and a comprehensive annotated bibliography.

U.S. Office of Personnel Management, ***Compendium of Labor-Management Cooperation Activities in the Federal Government***, Office of Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Washington, DC, May 1992.

This publication provides a brief look at the many diverse forms of labor-management cooperation throughout the Federal government, including ADR. It is useful as a contact source for organizations wishing to get first-hand knowledge of existing cooperative efforts.

Washington Education Association and Washington State School Directors' Association with the assistance of Professors' Stephen Goldberg, Northwestern University and Chester McCall of Pepperdine University, *Grievance Mediation: The Preferred Route for Resolution of Contractual Disputes*, Washington, 1988.

This academic study found that the introduction of grievance mediation as a step prior to arbitration will yield faster, less expensive, and less time-consuming resolutions to all grievance disputes that are resolved without proceeding to arbitration.

# APPENDIX

## Part I. Administrative Dispute Resolution Act of 1996

Public Law 104-320

104th Congress

An Act

To reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act of 1996"

### SEC. 2. AMENDMENT TO DEFINITIONS.

Section 571 of title 5, United States Code, is amended--

(1) in paragraph (3)--

(A) by striking , " in lieu of an adjudication as defined in section 51(7) of this title,";

(B) by striking "settlement negotiations,"; and

(C) by striking " and arbitration" and inserting "arbitration, and use of ombuds"; and

(2) in paragraph (8)--

(A) in subparagraph (B) by striking "decision," and inserting "decision;"; and

(B) by striking the matter following subparagraph (B).

### SEC. 3. AMENDMENTS TO CONFIDENTIALITY PROVISIONS

(a) Limitation of Confidentiality Application to Communication.--

Subsections (a) and (b) of section 574 of title 5, United States Code, are each amended in the matter before paragraph (1) by striking " any information concerning".

(b) Dispute Resolution Communication.--Section 574(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) except for dispute resolution communications generated by the neutral, the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding."

(c) Alternative Confidentiality Procedures.--Section 574(d) of title 5, United States Code, is amended--

- (1) by inserting "(1)" after "(d)"; and
- (2) by adding at the end thereof the following new paragraph:

"(2) To qualify for the exemption established under subsection (j), an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section."

[[Page 110 STAT. 3871]]

(d) Exemption From Disclosure by Statute.--Section 574 of title 5, United States Code, is amended by amending subsection (j) to read as follows:

"(j) A dispute resolution communication which is between a neutral and a party and which may not be disclosed under this section shall also be exempt from disclosure under section 552(b)(3)."

#### **SEC. 4. AMENDMENT TO REFLECT THE CLOSURE OF THE ADMINISTRATIVE CONFERENCE.**

(a) Promotion of Administrative Dispute Resolutions.--Section 3(a)(1) of the Administrative Dispute Resolution Act (5 U.S.C. 571 note; Public Law 101-552; 104 Stat. 2736) is amended to read as follows:

"(1) consult with the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code, to facilitate and encourage agency use of alternative dispute resolution under subchapter IV of chapter 5 of such title; and"

(b) Compilation of Information.--

- (1) In general.--Section 582 of title 5, United States Code, is repealed.
- (2) Technical and conforming amendment.--The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 582.

(c) Federal Mediation and Conciliation Service.--Section 203(f) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(f)) is amended by striking "the Administrative Conference of the United States and other agencies" and inserting "the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code,".

#### **SEC. 5. AMENDMENTS TO SUPPORT SERVICES PROVISION.**

Section 583 of title 5, United States Code, is amended by inserting "State, local, and tribal governments," after "other Federal agencies,".

## **SEC. 6. AMENDMENTS TO THE CONTRACT DISPUTES ACT.**

Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended--

- (1) in subsection (d) by striking the second sentence and inserting: "The contractor shall certify the claim when required to do so as provided under subsection (c)(1) or as otherwise required by law."; and
- (2) in subsection (e) by striking the first sentence.

## **SEC. 7. AMENDMENTS ON ACQUIRING NEUTRALS.**

(a) Expedited Hiring of Neutrals.--

- (1) Competitive requirements in defense agency contracts.--Section 2304(c)(3)(C) of title 10, United States Code, is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".
- (2) Competitive requirements in federal contracts.--Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".

[[Page 110 STAT. 3872]]

(b) References to the Administrative Conference of the United States.--Section 573 of title 5, United States Code, is amended--

- (1) by striking subsection (c) and inserting the following:  
"(c) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of dispute resolution under this subchapter. Such agency or interagency committee, in consultation with other appropriate Federal agencies and professional organizations experienced in matters concerning dispute resolution, shall--  
"(1) encourage and facilitate agency use of alternative means of dispute resolution; and  
"(2) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis."; and
- (2) in subsection (e) by striking "on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual".

## **SEC. 8. ARBITRATION AWARDS AND JUDICIAL REVIEW.**

(a) Arbitration Awards.--Section 580 of title 5, United States Code, is amended--

- (1) by striking subsections (c), (f), and (g); and
  - (2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.
- (b) Judicial Awards.--Section 581(d) of title 5, United States Code, is amended--
- (1) by striking "(1)" after "(b)"; and
  - (2) by striking paragraph (2).
- (c) Authorization of Arbitration.--Section 575 of title 5, United States Code, is amended--

(1) in subsection (a)(2), by striking "Any" and inserting "The";  
(2) in subsection (a)(2), by adding at the end the following: "Each such arbitration agreement shall specify a maximum award that may be issued by the arbitrator and may specify other conditions limiting the range of possible outcomes.";  
(3) in subsection (b)--  
(A) by striking "may offer to use arbitration for the resolution of issues in controversy, if" and inserting "shall not offer to use arbitration for the resolution of issues in controversy unless"; and  
(B) by striking in paragraph (1) "has authority" and inserting "would otherwise have authority"; and (4) by adding at the end the following:

"(c) Prior to using binding arbitration under this subchapter, the head of an agency, in consultation with the Attorney General and after taking into account the factors in section 572(b), shall issue guidance on the appropriate use of binding arbitration and when an officer or employee of the agency has authority to settle an issue in controversy through binding arbitration."

## **SEC. 9. PERMANENT AUTHORIZATION OF THE ALTERNATIVE DISPUTE RESOLUTION; PROVISIONS OF TITLE 5, UNITED STATES CODE.**

The Administrative Dispute Resolution Act (Public Law 101-552; 104 Stat. 2747; 5 U.S.C. 571 note) is amended by striking section 11.

[[Page 110 STAT. 3873]]

## **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) In General.--Subchapter IV of title 5, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 584. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter."

(b) Technical and Conforming Amendment.--The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 583 the following:

"584. Authorization of appropriations."

## **SEC. 11. REAUTHORIZATION OF NEGOTIATED RULEMAKING ACT OF 1990.**

(a) Permanent Reauthorization.--Section 5 of the Negotiated Rulemaking Act of 1990 (Public Law 101-648; 5 U.S.C. 561 note) is repealed.

(b) Closure of Administrative Conference.--

(1) In general.--Section 569 of title 5, United States Code, is amended--

(A) by amending the section heading to read as follows:

"Sec. 569. Encouraging negotiated rulemaking"; and

(B) by striking subsections (a) through (g) and inserting the following:

"(a) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of negotiated rulemaking. An agency that is considering, planning, or conducting a negotiated rulemaking may consult with such agency or committee for information and assistance.

"(b) To carry out the purposes of this subchapter, an agency planning or conducting a negotiated rulemaking may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal if that agency's acceptance and use of such gifts, devises, or bequests do not create a conflict of interest. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the head of such agency. Property= accepted pursuant to this section, and the proceeds thereof, shall be used as nearly= as possible in accordance with the terms of the gifts, devises, or bequests."

(2) Technical and conforming amendment.--The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 569 and inserting the following:

"569. Encouraging negotiated rulemaking."

(c) Expedited Hiring of Convenors and Facilitators.--

(1) Defense agency contracts.--Section 2304(c)(3)(C) of title 10, United States Code, is amended by inserting "or negotiated rulemaking" after "alternative dispute resolution".

(2) Federal contracts.--Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by inserting "or negotiated rulemaking" after "alternative dispute resolution".

(d) Authorization of Appropriations.--

[[Page 110 STAT. 3874]]

(1) In general.--Subchapter III of title 5, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 570a. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter."

(2) Technical and conforming amendment.--The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 570 the following:

"570a. Authorization of appropriations."

(e) Negotiated Rulemaking Committees.--The Director of the Office of Management and Budget shall--

(1) within 180 days of the date of the enactment of this Act, take appropriate action to expedite the establishment of negotiated rulemaking committees and committees established to resolve disputes under the Administrative Dispute Resolution Act, including, with respect to negotiated rulemaking committees, eliminating any redundant administrative requirements related to filing a committee charter under section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) and providing public notice of such committee under section 564 of title 5, United States Code; and

(2) within one year of the date of the enactment of this Act, submit recommendations to Congress for any necessary legislative changes.

## **SEC. 12. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS AND THE DISTRICT COURTS OF THE UNITED STATES: BID PROTESTS.**

(a) Bid Protests.--Section 1491 of title 28, United States Code, is amended--

- (1) by redesignating subsection (b) as subsection (c);
- (2) in subsection (a) by striking out paragraph (3); and
- (3) by inserting after subsection (a), the following new subsection:

"(b)(1) Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

"(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5."

(b) Effective Date.--This section and the amendments made by this section shall take effect on December 31, 1996 and shall apply to all actions filed on or after that date.

(c) Study.--No earlier than two years after the effective date of this section, the United States General Accounting Office shall undertake a study regarding the concurrent jurisdiction of the district courts of the United States and the Court of Federal Claims over bid protests to determine whether concurrent jurisdiction is necessary. Such a study shall be completed no later than December 31, 1999, and shall specifically consider the effect of any proposed change on the ability of small businesses to challenge violations of Federal procurement law.

(d) Sunset.--The jurisdiction of the district courts of the United States over the actions described in section 1491(b)(1) of title 28, United States Code (as amended by subsection (a) of this section) shall terminate on January 1, 2001, unless extended by Congress. The savings provisions in subsection (e) shall apply if the bid protest jurisdiction of the district courts of the United States terminates under this subsection.

(e) Savings Provisions.--

(1) Orders.--A termination under subsection (d) shall not terminate the effectiveness of orders that have been issued by a court in connection with an action within the jurisdiction of that court on or before December 31, 2000. Such orders shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(2) Proceedings and applications.--(A) a termination under subsection (d) shall not affect the jurisdiction of a court of the United States to continue with any proceeding that is pending before the court on December 31, 2000.

(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if such termination had not occurred. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that proceeding could have been discontinued or modified absent such termination.

(f) Nonexclusivity of GAO Remedies.--In the event that the bid protest jurisdiction of the district courts of the United States is terminated pursuant to subsection (d), then section 3556 of title 31, United States Code, shall be amended by striking "a court of the United States or" in the first sentence.

Approved October 19, 1996.

## Part II. How to Evaluate the *Guide's* Usefulness

### Evaluation of Alternative Dispute Resolution: A Resource Guide

We are pleased that you have had a chance to review the U.S. Office of Personnel Management's (OPM) issuance, *Alternative Dispute Resolution: A Resource Guide*. If you have the hardcopy version of the issuance, we encourage you to share with others in your office. If you've accessed the web-based version of the *Guide*, please pass on the Internet address to others. We also would like to hear from you about the usefulness and the quality of the *Guide*. Your feedback helps us as we develop new resources. Please fax evaluations to the U.S. Office of Personnel Management at (202) 606-0967 or complete the form on the OPM Internet web site. Thank you.

<b>PLEASE RATE THE USEFULNESS AND QUALITY OF EACH <i>GUIDE</i> SECTION:</b>		
<input type="checkbox"/> Excellent <input type="checkbox"/> Very Good <input type="checkbox"/> Good <input type="checkbox"/> Adequate <input type="checkbox"/> Deficient		
<b>Section I: ADR Agency Practices:</b>	Usefulness:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
	Quality:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
<b>Section II: Alternative Discipline Agency Practices:</b>	Usefulness:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
	Quality:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
<b>Section III: Shared Neutrals Programs:</b>	Usefulness:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
	Quality:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
<b>Section IV Administrative Appeals Agencies:</b>	Usefulness:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
	Quality:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1

<b>Section V: ADR Training and Assistance:</b>	Usefulness:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
	Quality:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
<b>Section VI: ADR Web Sites:</b>	Usefulness:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
	Quality:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
<b>Section VI: Bibliography:</b>	Usefulness:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
	Quality:	<input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input type="checkbox"/> 1
<b>How will you use the issuance?:</b>	<input type="checkbox"/> As an employee resource <input type="checkbox"/> As a training tool/desk aide for supervisors <input type="checkbox"/> As a training tool for select offices (Human Resources, Equal Employment Opportunity, Unions and/or Legal Office) <input type="checkbox"/> Agency -Wide Distribution <input type="checkbox"/> Other: <input type="text"/>	
		
		<input type="button" value="Submit"/> <input type="button" value="Reset"/>

### Part III. How to Provide Update Information

The usefulness of the *Alternative Dispute Resolution Resource Guide* depends on having accurate information. If you see errors in the *Guide* or have update information, please contact the U.S. Office of Personnel Management (OPM) in one of the ways noted below.\* If you would like OPM to include your alternative dispute resolution program, alternative discipline program, shared neutrals program, or to add materials not currently included, please submit a draft (following the *Guide's*

format) to OPM of what you would like publicized. The information you provide is invaluable to the process of making the *Guide* a better and more useful tool for you and other readers.

**By Mailing Address:**

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Room 7425  
Washington, DC 20415-2000

**ATTN:** ADR Resource Guide

**By Telephone:** (202) 606-2920

**By FAX:** (202) 606-0967

**By E-mail:** [er@opm.gov](mailto:er@opm.gov)

**By Web Site:** <http://www.opm.gov/er>

\* If you have comments or suggestions about the usefulness and quality of the *Guide*, please complete the form contained in **Part IV** of the *Guide* and send it back to OPM.