



DEFENSE INFORMATION SYSTEMS AGENCY

P. O. BOX 549
FORT MEADE, MARYLAND 20755-0549

JUL 15 2014

DISA INSTRUCTION 100-50-14*

POLICIES

Alternative Dispute Resolution

1. **Purpose.** This Instruction prescribes policy and assigns responsibilities for alternative dispute resolution (ADR). It describes the objective of ADR and provides guidance on dispute prevention and the appropriateness of ADR techniques.
2. **Applicability.** This Instruction applies to all military and civilian personnel assigned to or employed by the DISA.
3. **Authority.** This Instruction is published in accordance with the authority contained in Section 571 through 584 of Title 5 of United States Code. The policy of promoting ADR is expressed in other statutory and regulatory authorities; for example, the Americans with Disabilities Act of 1990, 5 U.S.C. §§ 571 et seq.; the Equal Employment Opportunity Regulations, 29 C.F.R. Part 1614; the Federal Acquisition Regulation, 48 C.F.R. Part 33; Executive Order No. 12988, February 5, 1996; and DoD Directive 5145.5, Alternative Dispute Resolution (ADR), 22 April 1996.
4. **Definitions.**
 - 4.1 **Alternative Dispute Resolution (ADR).** Any technique agreed to by the parties for resolving issues in controversy without resort to litigation in either an administrative or judicial forum. Techniques include settlement negotiations, mediation, conciliation, facilitation, arbitration, early neutral evaluation, mini-trials, fact-finding, peer review panels, ombudsmen, or any combination thereof.
 - 4.2 **Deciding Official.** Individual responsible for and with the authority to take action to resolve an issue in a pending dispute or controversy including, but not limited to, the contracting officer, supervisor, or other management official having authority to grant relief or otherwise address an issue.
5. **Policy.** As the use of ADR usually results in faster, less expensive, and less contentious resolution of the issue in controversy, ADR techniques will be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable.
 - 5.1 The use of ADR will be considered in every situation where negotiations have not proved effective. All DISA personnel shall be alert for opportunities to use ADR to avert or avoid litigation.

5.2 Use of ADR techniques, whether in the context of personnel and equal employment opportunity (EEO) issues, contract disputes or any other issues, shall be free from restraint, interference, coercion, discrimination, or reprisal.

6. Objective of ADR. ADR offers a broad spectrum of approaches for dealing with conflict and seeking solutions satisfactory to all parties. The value of ADR to the Agency lies in its prevention of the unnecessary expenditure of time, money, and other resources. ADR mends, maintains, and improves relationships by focusing on mutual interests and concerns and also opens lines of communication and offers mutually acceptable solutions to pending disputes.

7. Dispute Prevention. Preventing disputes is preferable to any method of dispute resolution. Building cooperative and understanding relationships will serve to prevent disputes before they occur.

7.1 If a dispute arises, efforts should be made to resolve the dispute through informal efforts. A thorough, objective review at the earliest stage of a dispute is essential. All parties should also be given the opportunity to present and discuss their positions.

7.2 If a dispute cannot be avoided and cannot be resolved by traditional or informal methods, deciding officials, with the advice of the Agency Dispute Resolution Specialist and the ADR Specialist for their organizational component, shall consider whether the dispute is appropriate for the application of ADR techniques. Most disputes, regardless of the subject matter, are a potential candidate for ADR.

8. Appropriateness of ADR Techniques.

8.1 ADR techniques may be appropriate where one or more of the following circumstances are evident:

8.1.1 The dispute involves factual or nonprecedential issues.

8.1.2 Traditional processes appear unlikely to resolve the issue short of litigation.

8.1.3 The parties want to settle the dispute quickly.

8.1.4 The parties wish to maintain, establish, or restore good working relationships.

8.1.5 The importance of the issue is minor relative to the potential cost and disruption that will occur if traditional dispute resolution processes are used.

8.2 Generally, ADR shall not be used when one or more of the following circumstances are evident:

8.2.1 A definitive and precedential resolution is required and an ADR proceeding is not likely to be generally accepted.

8.2.2 The matter in dispute involves or may bear on significant questions of government policy or require additional procedures before final resolution and will not likely serve to develop a recommended Agency policy.

8.2.3 The traditional dispute resolution method needs to be used to reduce variations or inconsistency among individual decisions.

8.2.4 The matter in dispute significantly affects persons who are not willing to be parties in the proceeding.

8.2.5 A full public record is important and the ADR proceeding will not provide that record.

9. Responsibilities.

9.1 General Counsel (GC). The GC is the Agency Dispute Resolution Specialist and will:

9.1.1 Administer the provisions of this Instruction.

9.1.2 Monitor ADR implementation.

9.1.3 Evaluate ADR execution and results.

9.1.4 Facilitate access to third party neutrals, as appropriate.

9.1.5 Furnish guidance and assistance in ADR implementation.

9.1.6 Approve any further implementation of ADR by any DISA component.

9.1.8 Furnish guidance and assistance, as needed, by the component ADR Specialists on specific cases.

9.1.9 Serve as the primary Agency representative to the DoD ADR Coordinating Committee.

9.2 Principal Directors, Directors, Commanders, and Chiefs of Major Organizational Elements. These individuals, or their designees, are ADR Specialists for their components and will:

9.2.1 Administer ADR within their organizations under the management of the Agency Dispute Resolution Specialist, including the management of ADR training initiatives and ensure Agency personnel have access to existing ADR resources.

9.2.2 Obtain the approval of the Agency Dispute Resolution Specialist on any memorandum, letter, or directive that implements an ADR plan or policy within that organizational component.

9.2.3 Keep the Agency Dispute Resolution Specialist informed of the status of each matter referred to an ADR proceeding.

9.2.4 Identify the appropriate deciding official at the outset of any ADR initiative whether that authority is within DISA or outside of DISA. (Deciding officials must obtain the concurrence of the General Counsel for any settlement agreements. The Chief Financial Executive (CFE) must confirm that funds are available and are being reserved before any settlement agreement that obligates funds is signed. The Chief of Staff must approve any obligation of funds that exceeds \$1,000.)

9.2.5 Ensure the deciding official is kept informed on the status of specific matters, as necessary, and that any final disposition of the dispute is properly executed.

9.2.6 Provide statistics and other information for reporting purposes, as requested by the Agency Dispute Resolution Specialist.

9.2.7 Ensure ADR techniques are used, to the maximum extent practicable, to avoid the unnecessary expenditure of time, money, and resources to engage in litigation.

9.2.8 Periodically review the degree of ADR usage within their activities and take steps to foster a greater use of ADR and the elimination of any unnecessary barriers.

9.2.9 Designate an activity ADR Specialist to facilitate the use of ADR within their organization.

9.2.10 Provide ADR training to personnel involved in implementing ADR.

9.3 Director for Manpower, Personnel, and Security (MPS). In addition to implementing ADR within the Agency, as detailed in subparagraph 9.2, the Director, MPS, will, subject to the overall guidance and coordination of the Agency Dispute Resolution Specialist, apply ADR as it relates to general personnel disputes (e.g., grievances, alleged unfair labor practices, and similar workplace conflicts).

9.4 Director of Equal Employment Opportunity and Diversity (EEOD). In addition to implementing ADR within the Agency, as detailed in subparagraph 9.2, the Director, EEOD, will apply ADR as it relates to EEO complaints of discrimination. In working with the Agency Dispute Resolution Specialist, the Director, EEOD, will act in accordance with DoD, as well as Equal Employment Opportunity Commission (EEOC) directives.

9.5 Director for Procurement (PLD). In addition to implementing ADR within the Agency, as detailed in subparagraph 8.2, the Director, PLD, will, subject to the overall guidance and coordination of the Agency Dispute Resolution Specialist, apply ADR as it relates to disputes raised by persons or businesses under contract to the Agency in accordance with the Federal Acquisition Regulation Part 33.214.

9.6 Director, MPS; Director, EEOD; and Director, PLD. In addition to the responsibilities assigned in subparagraph 9.2 and either 9.3, 9.4, or 9.5, as applicable, these individuals will maintain a plan for utilizing ADR techniques in their dispute procedures. (At a minimum, the

plan should include a policy statement promoting the use of ADR in workplace or contractual disputes, ADR techniques and procedures to be used, methods for obtaining neutrals, and responsibility for data collection and reporting.)

10. **ADR Steering Committee.** An ADR Steering Committee is comprised of members representing MPS, PLD, and EEOD. Component ADR Specialists are eligible to attend ADR Steering Committee meetings.



FREDERICK A. HENRY
Brigadier General, USA
Chief of Staff

*This Instruction cancels DISAI 100-50-14, 21 November 2005, and must be reissued, canceled, or certified current within 5 years of its publication. If not, it will expire 10 years from its publication date and be removed from the DISA issuances postings.

OPR: GC - disa.meade.gc.mbx.disa-gen-counsel@mail.mil

DISTRIBUTION: P