

DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

IN REPLY REFER TO
BUPERSINST 5800.1
PERS-08
15 Feb 00

BUPERS INSTRUCTION 5800.1

From: Chief of Naval Personnel

Subj: ALTERNATIVE DISPUTE RESOLUTION (ADR) PROGRAM FOR
CIVILIAN EMPLOYEES

Ref: (a) SECNAVINST 5800.13
(b) 29 CFR 1614
(c) SECNAVINST 5214.2B

Encl: (1) Profiles of Potential ADR Programs

1. Purpose. Per references (a) and (b), this instruction provides guidance for establishing Alternative Dispute Resolution (ADR) programs within the Chief of Naval Personnel (CHNAVPERS) claimancy. This instruction does not change entitlements for employees to file complaints or grievances or to use the chain of command to resolve issues; rather, it establishes additional tools to resolve disagreements.

2. Definition. The ADR program is a voluntary procedure that parties agree to use, in lieu of or in conjunction with a formal administrative process, to resolve disagreements in the work environment.

3. Background. Reference (a) provides guidance on developing an ADR system within the Department of the Navy (DON). The use of ADR should increase morale and reduce time and costs in resolving workplace disagreements. Reference (b) requires all agencies to establish or make available an ADR program during pre-complaint processing of Equal Employment Opportunity (EEO) complaints. ADR is also appropriate for resolution of other (non-EEO) disputes. ADR is a means of dispute resolution that emphasizes creativity and cooperation in lieu of adjudicative or adversarial problem solving processes. It has proven effective in reducing and resolving disputes both among activity personnel and between activities. It has been used to resolve disputes in contract enforcement, grievances, and EEO cases. Instead of lengthy investigations and/or litigation, ADR offers the opportunity for swift, amicable results that are mutually acceptable to all parties of a workplace dispute.

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4. Policy. It is the policy of CHNAVPERS that ADR programs will

a. Be provided at each activity within the CHNAVPERS claimancy.

b. Focus on early resolution of disagreements through the fastest and least expensive method possible.

c. Be used in conjunction with formal administrative processes to provide a variety of tools to resolve disagreements. These alternatives may be incorporated into existing processes such as EEO complaints of discrimination and administrative grievances, as long as they are presented as options, not mandates.

5. Applicability and Scope. The provisions of this instruction apply to all managers, supervisors, and employees. ADR **will not** be used to resolve cases of sexual assault, other criminal activity, or any action prohibited by law or regulation.

6. Action. Commanding officers/activity heads will

a. Contact appropriate Human Resource Offices (HROs) and servicing Employee Relations Specialists for guidance.

b. Implement local ADR program(s). While there are several options available, the choice of programs and the resources to use are entirely at the discretion of each activity head. Several potential ADR processes are profiled in enclosure (1); however, to maximize resources, activities are encouraged to participate in shared ADR programs provided by HROs or Human Resources Service Centers (HRSCs); or to enter into agreements with other DON activities when possible. Mediation is the most common ADR program and is currently available through most HROs and HRSCs. A cadre of mediators has been trained and certified to conduct mediation throughout the United States. Commands desiring to share in an already established ADR program should contact their servicing HRO for guidance.

c. Develop and issue appropriate procedures and guidelines within three months of the date of this instruction.

d. Designate a Dispute Resolution Specialist (DRS) to implement the ADR program. ADR duties may be assigned to

existing billets, identified as a collateral duty, or shared with other DON activities or servicing HROs. This instruction does not authorize creation of additional billets to current manning levels.

e. Provide training for DRSS, managers, supervisors, and employees, as needed. Training should be conducted by instructors who are certified in the specific ADR process(es) utilized by the command.

f. Ensure full protection from reprisal for any employee who seeks resolution via ADR.

7. Reports

a. Provide a one-time ADR Implementation Report to Bureau of Naval Personnel (BUPERS) (PERS-08) within three months of the date of this instruction. This report is to identify the command/activity name and address; name, title, grade, and code of assigned ADR point of contact; and commercial/DSN telephone numbers and E-Mail addresses. Attach a copy of all documents implementing the ADR program, and profiles of each ADR program available for use. State whether the command/activity will opt into the servicing HRSC program and provide copies of any implementing documentation required by the HRSC. When any of these factors change, submit an update.

b. Report the following information to BUPERS (PERS-08) by 15 October, annually:

(1) Command/activity name and unit identification number (UIC).

(2) ADR processes used.

(3) Number by race, national origin, and sex (RNS) of employees using each ADR process.

(4) The issues addressed under each ADR process.

(5) Success rate of each ADR process used, by RNS and issue.

(6) Barriers to use of ADR.

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(7) Number of managers and employees trained in
ADR/mediation.

(8) Corrections/changes to ADR implementation report.

c. These reports are exempt from reports control by
reference (c).

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Deputy Chief of Naval Personnel

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PROFILE OF POTENTIAL ADR PROGRAMS

Following are profiles of potential ADR programs. Not all of the programs are appropriate for use at all activities.

1. **MEDIATION**. A third party, often an impartial professional or trained mediator from a governmental mediation and/or conciliation agency, endeavors to assist the parties in narrowing their differences and reaching a settlement. Mediation attempts to address the root cause of the problem vice just the immediate issue at hand. Government mediators are often available for per diem and travel costs. Contract or private consultants are, as a rule, considerably more costly.
2. **ROUNDTABLE**. A Dispute Resolution Specialist chairs a roundtable discussion between the parties. Typically, round-tables include the department head; responsible management official(s); servicing labor/employee relations specialist; and, depending upon the specific case, other participants such as witnesses, supervisor(s), discrimination complaints manager (if an EEO issue), the person raising the issue, and their representative.
3. **PEER REVIEW**. A team of the employee's peers and impartial agency officials review the issues in contention and recommend a resolution.
4. **OMBUDSMAN**. A designated neutral employee or board is appointed as an ombudsman and provides the employee a chance to air employment-related problems. The ombudsman serves as a catalyst to bring the employee and supervisor together for mutual understanding and benefit, establish or improve communications, and attempt to bring about resolution of the complaint.
5. **FACT-FINDING**. A process by which a fact-finder with technical expertise related to the subject matter of the dispute evaluates the matter and prepares a report establishing the facts of the case. The report is then used as the basis for settlement negotiations.

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6. **EARLY NEUTRAL EVALUATION**. This process involves appointing a trier of fact, such as a judge or attorney, to review the facts of the case and render a decision.