



DEFENSE HEALTH AGENCY
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MEMORANDUM FOR ALL DEFENSE HEALTH AGENCY EMPLOYEES

DEC 06 2019

SUBJECT: Alternative Dispute Resolution and Conflict Management Policy

The Defense Health Agency (DHA) is firmly committed to using methods other than litigation for addressing workplace conflict and resolving Equal Employment Opportunity (EEO) and other workplace disputes in all of its operations. Used appropriately, mediation can provide faster, less expensive and more productive results in resolving concerns about workplace discrimination through the EEO program for civilians, and Military Equal Opportunity (MEO) program for uniformed service members. Likewise, seeking early Conflict Management (CM) assistance can bring clarity to miscommunication, improve interpersonal interactions and reduce workplace conflict, returning employees and managers to more satisfying and productive engagement on the workplace.

The Equal Employment Opportunity Commission revised regulation 29 Code of Federal Regulations 1614.102 (b) (2) requires agencies to establish or make available, an Alternative Dispute Resolution (ADR) program. The ADR program must be available during both the pre-complaint and formal complaint processes, and ensuring the participation of a management official with settlement authority. MEO, is outlined in Department of Defense Directive 1350.2, Department of Defense Military Equal Opportunity (MEO) Program, with the Commanders having the final authority. Department of Defense Instruction 5145.05 (May 27, 2016) supports such programs, and sets the expectation that all DoD Components will additionally incorporate conflict management skill building and interventions as an integral part of normal business practices, so that all workplace conflict can be resolved before disputes get entrenched.

The ADR Program is applicable to all activities assigned to DHA. Types of ADR include:

1. **ADR** – Any procedure that is used as an alternative to litigation or formal administrative adjudicatory proceedings to resolved issues in controversy, including, but not limited to, facilitation, conciliation, mediation, fact finding, early neutral evaluation, arbitration, the use of Ombuds, or any combination thereof.
2. **Conciliation** – A process in which a third party, called a conciliator, restores damaged relationships between disputing parties by bringing them together, clarifying perceptions, and pointing out misperceptions. This process often is used prior to other ADR processes, such as facilitation and mediation.
3. **Mediation** – A process in which parties are assisted by a neutral, called a mediator, who assists in establishing negotiating procedures, identifying issues in conflict, and defining options for resolution. Mediators are not vested with any decision making authority and cannot impose resolution on the parties; the parties make the decision themselves.
4. **Early Neutral Evaluation** – A process which involves informal presentation by the parties to a neutral with respected credentials for an oral or written evaluation of the

- parties' positions. The evaluation of the strength and weaknesses of the parties' positions on a specific issue may be binding or non-binding.
5. **Settlement Judge/Conference** – A judicial ADR process in which a judge hears the positions of the parties and provides them with a non-binding evaluation. The judge may attempt to mediate the resolution of the dispute or simply evaluate the strengths and weaknesses of each of the parties' positions.
 6. **Fact-finding** – The use of an impartial expert (or group) selected by the parties, by the agency, or by an individual with the authority to appoint a fact finder, in order to determine what the "facts" are in a dispute.
 7. **Review Panel** – A problem-solving process where a dispute is presented to a group or panel for a decision before it becomes a formal complaint.
 8. **Facilitation** – The use of a third party neutral to assist multi-party workgroups in accomplishing their work by providing process leadership and process expertise, to assist the parties to move towards collaboration and consensus, generally before conflict has crystallized into a defined dispute for which the use of an ADR neutral has become necessary.
 9. **Ombudsman (or Ombuds)** – The use of an organizational ombudsman to work with individuals and groups within the DoD component, in a confidential and neutral/impartial manner, to explore and assist in determining options to help resolve conflict, problematic issues or concerns, and to bring systematic concerns to the attention of the organization for resolution. While Ombuds work incorporates techniques such as fact finding, facilitation and other conflict management, Ombuds intervention should be identified as specific ADR events, and reported under the category "Ombuds" unless primarily addressed to a separate ADR action or event.
 10. **Arbitration** – A formal adversarial hearing before a neutral, called the arbitrator, with a relaxed evidentiary standard. The arbitrator is usually a subject matter expert. An arbitrator or arbitration panel serves as a "private judge" to render an informed decision based on the merits of the dispute. The use of arbitration should be reported either as "non-binding" (if the arbitrator decision is not binding upon the parties) or "binding," depending upon the process chosen.

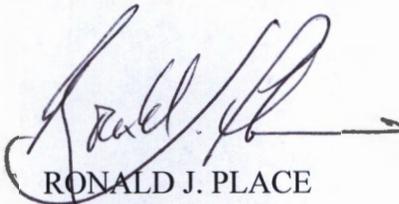
The most frequently used type of ADR within DHA, particularly for EEO/MEO/CM disputes, is mediation, conducted by a qualified mediator or co-mediators.

Responsibility and authority for the DHA ADR/CM Program rests with Equal Opportunity and Diversity Management (EODM). To enhance the effectiveness of ADR in DHA, management officials will be required to take part in the process if mediation is requested by the employee, unless extenuating circumstances exist.

DHA personnel are encouraged to identify and address workplace conflict regardless of whether it has led to an EEO/MEO/CM dispute, and to take steps to resolve that conflict in its early stages by identifying underlying issues and addressing them in a manner that supports a return of personnel to their focus on the DHA mission. DHA personnel are encouraged to seek assistance with resolution of such conflict through the DHA ADR/CM program. All managers,

supervisors, and employees have the responsibility under this policy, to resolve non-EEO/MEO/CM workplace disputes dealing with the general workplace, in order to enhance productivity and promote harmonious work relationships.

If you require more information regarding ADR/CM, please contact EODM at email: DHA.EODM@mail.mil.

A handwritten signature in black ink, appearing to read "Ronald J. Place", with a long horizontal stroke extending to the right.

RONALD J. PLACE
LTG, MC, USA
Director