

**ALTERNATIVE DISPUTE RESOLUTION**

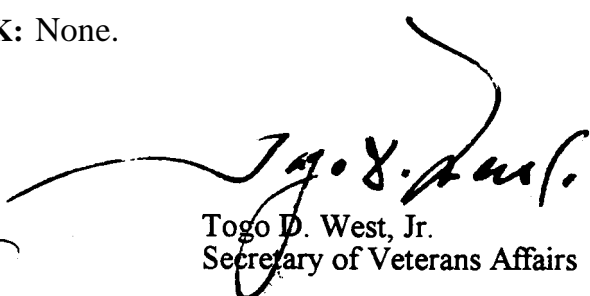
**1. REASON FOR ISSUE:** To provide policy within the Department of Veterans Affairs (VA) to implement the Administrative Dispute Resolution Act of 1996 and the Presidential Memorandum of May 1, 1998, on alternative dispute resolution (ADR), as they relate to workplace conflicts. To implement the recommendations as set forth in the Final Report and Recommendations of the VA/ADR Working Group Addressing a Department-wide Approach for Meeting Government-wide and Departmental Alternative Dispute Resolution (ADR) requirements.

**2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth the policies and assigns responsibilities; encourages and directs the appropriate use of ADR techniques to resolve disputes and issues in controversy within VA at the lowest organizational level; and establishes a **framework** for encouraging the expanded use of ADR within VA. This directive also:

- a. Contains policy statements regarding VA's use of **ADR**, particularly mediation, to help resolve workplace conflicts and disputes.
- b. Establishes and defines the roles of the VA-ADR Steering Committee, ADR Coordinators and ADR Liaisons.
- c. Sets forth responsibilities for implementing VA's ADR program.

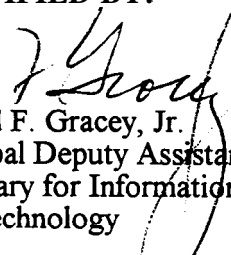
*NOTE: Paragraph 5 of this directive contains definitions that are important to a full understanding of VA 's ADR Program.*

- 3. **RESPONSIBLE OFFICE:** Board of Contract Appeals (09), Chair.
- 4. **RELATED HANDBOOK:** None.
- 5. **RESCISSIONS:** None.



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**CERTIFIED BY:**



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## ALTERNATIVE DISPUTE RESOLUTION

**1. PURPOSE.** This directive provides policy within the Department of Veterans Affairs (VA) to implement the Administrative Dispute Resolution Act of 1996 and the Presidential Memorandum of May 1, 1998, on Alternative Dispute Resolution (ADR) as they relate to workplace conflicts and disputes; establishes a framework for encouraging the expanded use of ADR, particularly mediation; establishes a VA-ADR Steering Committee; assigns responsibilities; and encourages and directs the appropriate use of ADR techniques to resolve conflicts within VA at the lowest organizational level.

### 2. POLICY

a. VA is committed to the appropriate use of ADR for resolving conflicts and disputes in a more timely, less costly and less adversarial manner than litigation or administrative adjudication. VA Administrations and staff offices should use ADR techniques as an alternative to litigation or formal administrative proceedings whenever appropriate. To promote the use of ADR in contracting and procurement matters, the Department issued VA Directive 7433.3 and VA Handbook 7433.3 on November 24, 1998. The purpose of VA Directive 5978 is to promote the use of ADR, particularly mediation, to help resolve workplace conflicts.

b. VA's Labor partners, at all levels within the Department, are a vital component to development, implementation and assessment of an overall effective VA ADR Program and are encouraged to participate in this endeavor. All ADR programs within the Department must be consistent with collective bargaining agreements. VA ADR programs shall be jointly designed and implemented in good faith with Labor, and include the use of mutually agreed-upon neutral third parties.

c. It is the policy of VA to encourage its employees to use mediation to help resolve workplace conflicts as early as feasible, to the maximum extent practicable, in an appropriate and cost-effective manner, and at the lowest organizational level. Control and responsibility for ADR program design, development, implementation and assessment rests primarily within the Administrations and staff offices that have day-to-day application for ADR.

d. VA recognizes that mediation programs can and do exist at various levels within the Department. Creativity and flexibility in program design, that adheres to core mediation principles and best practices, is encouraged. VA organizations and facilities should design and implement mediation programs that meet their individual cultures, needs and resources. Various field facilities maintain "local" mediation programs or collaborate in a "shared" program, e.g., Columbia VAMC Mediation Program, VA Shared Service Center Mediation Program, Little Rock/North Little Rock Mediation Program, Wichita Medical and Regional Office Center ADR Program, and VA-Early Mediation Program (Headquarters and Washington, D.C., area facilities). Other VA facilities participate in interagency sharing programs, e.g., Kentucky Federal ADR Council, and Seattle Interagency ADR Consortium. Some regions sponsor "regional" programs, e.g., VISN 6 Mediation Program, and Florida-Puerto Rico Mediation

Project. Administrations and staff offices have “organizational” programs, e.g., ORM Mediation Program, and VA ADR Program for Acquisition. The Department’s overall ADR program is referred to in this Directive as the “VA ADR Program.”

e. The decision to use mediation calls for informed judgment. Employees’ relationships, their interest in retaining control over the process, the need to move quickly, and the need for neutral involvement are factors to be weighed in deciding whether ADR is appropriate for a particular conflict.

### 3. RESPONSIBILITIES

a. **The Chair of the Board of Contract Appeals.** The Chair of the Board of Contract Appeals, as VA’s Dispute Resolution Specialist (DRS), shall:

- (1) Promote the appropriate use of ADR throughout VA.
- (2) Chair the VA-ADR Steering Committee.
- (3) Coordinate resources made available through the VA-ADR Steering Committee.
- (4) Assist the VA-ADR Steering Committee in the design, development, implementation and assessment of the VA-ADR Program.
- (5) Monitor VA’s ADR effort and report annually to the Secretary and Deputy Secretary on VA’s ADR effort and the activities of the VA-ADR Steering Committee.

b. **Administration Heads, Assistant Secretaries, and Other Key Officials.** Administration Heads, Assistant Secretaries, and Other Key Officials, at both Departmental and organizational levels, shall:

- (1) Establish ADR policies that facilitate the appropriate use of mediation to help resolve workplace conflicts.
- (2) Implement appropriate ADR programs that make the option of mediation available to all VA employees.
- (3) Designate an ADR Coordinator to have primary responsibility for implementing this Directive, developing the ADR program within the organizational element, and interfacing with ADR activities throughout the organization. This individual’s position description should be appropriately modified to reflect these responsibilities.
- (4) Ensure that the mediation option is available to all VA employees for all appropriate workplace conflicts.

- (5) Ensure that informed decisions can be made by all VA employees on ADR and the mediation option, and that all VA employees have access to appropriate information and instruction that will provide a basic understanding of mediation and the program available at their facility.
- (6) Encourage all VA employees to use conflict avoidance, early conflict resolution, mediation and other ADR techniques to help resolve workplace conflicts.
- (7) Review existing approaches to conflict resolution; eliminate unnecessary barriers; and where feasible, foster increased use of conflict avoidance, early conflict resolution, mediation and other ADR techniques.
- (8) Cooperate to the fullest extent at all levels within the Department with VA's Labor partners to design, implement and use ADR programs, particularly mediation programs.
- (9) Establish an ADR network within the organizational element that is consistent with this Directive.
- (10) Collect and analyze information in a standardized fashion to enable ADR programs to be monitored and assessed, in order to measure resource savings, timeliness and user satisfaction.
- (11) Ensure that any databases, information systems, and instruments that are developed are consistent with Departmental ADR policy and procedures.
- (12) Encourage the designation of ADR Liaisons throughout the organization.
- (13) Support ADR efforts by providing resources for organizational ADR initiatives.
- (14) To the extent consistent with the mission of the organization, as determined by the head of the organization, support the VA-ADR Steering Committee and other Department-wide ADR initiatives.
- (15) Coordinate ADR policies and programs through the Dispute Resolution Specialist and VA-ADR Steering Committee.
- (16) Collaborate with other organizational elements within VA on ADR efforts to effectuate a One-VA approach to ADR and to avoid unnecessary expenditures of effort, time and money.
- (17) Participate in collaborative intra- and inter-agency ADR groups and make use of existing VA and Federal ADR resources to avoid unnecessary expenditure of time and money.
- (18) Perform other activities geared at producing a high-quality, well-performing organizational ADR program.

c. **VA-ADR Steering Committee.** The VA-ADR Steering Committee shall:

(1) Determine appropriate plans of action to implement Federal and Department-level ADR initiatives and assist in executing those plans.

(2) Coordinate and execute Department-level ADR initiatives.

(3) Provide resources to accomplish the Department's ADR initiatives.

(4) Share information and resources to accomplish the Department's ADR initiatives.

(5) Ensure that the ADR goals and strategies as set forth in the VA's Strategic Plan are met.

(6) Develop ADR databases and information systems, survey instruments, and other items to gather, monitor and evaluate Departmental ADR information and programs.

(7) Collect and analyze information in a standardized fashion to enable ADR programs to be monitored and assessed, in order to measure resource savings, timeliness and user satisfaction.

(8) Oversee, evaluate, and suggest improvement to VA ADR Program initiatives and activities.

(9) Perform activities geared at producing a high-quality, well-performing VA ADR Program.

#### 4. REFERENCES

a. The Administrative Dispute Resolution Act of 1996 (ADRA), 5 U.S.C. §§ 571-584.

b. Presidential Memorandum, May 1, 1998.

c. VA FY 1998-2003 Strategic Plan, General Goal 10.

d. VA National Partnership Agreement.

e. 29 CFR 1614, 64 Fed. Reg. 37643-37661 (July 12, 1999).

#### 5. DEFINITIONS

a. **ADR Liaison.** An individual designated at a local or regional level VA facility to liaison with that organization's ADR Coordinator and other VA ADR program officials.

b. **Alternative Dispute Resolution (ADR).** A group of processes that use specially trained neutral persons, who are not associated with the controversy, to help individuals with a problem or dispute resolve issues in controversy. Forms of ADR include, but are not limited to,

conciliation, facilitation, mediation, fact-finding, minitrials and arbitration, or any combination thereof.

**c. Mediation.** A form of ADR in which a specially trained neutral third party (mediator) assists individuals to find a mutually acceptable solution to their dispute. Mediation is a problem solving process; it is voluntary, unbiased, and confidential. VA employees using mediation must agree to participate and agree to any solution that is generated through the mediation. Mediation has comprehensive applicability for VA components seeking creative, mutually acceptable, and early resolution of conflicts, and is the preferred type of ADR for resolving VA workplace disputes.

**d. ADR Coordinator(s).** An individual designated in each Administration and staff office to have primary responsibility for implementing this Directive, developing the ADR program within that organization, and interfacing with various ADR elements throughout the organization and Department. ADR Coordinators should have clearly defined goals, duties and responsibilities associated with ADR activities that should be identified, developed and contained in position descriptions. Among other things, their responsibilities shall include implementing this Directive, developing the ADR program within the organization they serve, and maintaining excellent relationships with Labor and Management.

**e. VA FY 1998-2003 Strategic Plan, General Goal 10.** Requires VA to conserve resources by increasing the use of ADR techniques. It also requires that VA organizations promote and facilitate the use of ADR techniques to resolve disputes (e.g. Labor-Management, discrimination, personnel and contract) more quickly and at less cost.

**f. VA-ADR Steering Committee.** A group of individuals, consisting of representatives of VA Administrations and staff offices that have applications for ADR, as well as Labor. Members of the VA-ADR Steering Committee and their designees are primarily responsible for advocating and facilitating ADR and mediation use throughout the Department; facilitating the exchange of ADR information and resources among various VA components; and coordinating, implementing and assessing Department-wide ADR initiatives.

**g. VA Dispute Resolution Specialist (DRS).** Appointed pursuant to the ADRA, the Department's DRS is responsible for promoting the appropriate application of ADR processes within VA. The Chair of the Board of Contract Appeals is the Department's DRS.