



DEPARTMENT OF THE NAVY  
COMMANDER, NAVY INSTALLATIONS COMMAND  
2713 MITSCHER ROAD, SW  
ANACOSTIA ANNEX, DC 20373-5802

CNICINST 5800.1A  
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CNIC INSTRUCTION 5800.1A

From: Commander, Navy Installations Command

Subj: ALTERNATIVE DISPUTE RESOLUTION (ADR)

Ref: (a) ADR Act of 1996  
(b) Equal Employment Opportunity Commission Management Directives MD-110 and MD-715  
(c) Executive Order 12988, Civil Justice Reform, 5 Feb 96  
(d) Executive Order 12979, Agency Procurement Protests, 25 Oct 95  
(e) DoD Directive 5145.5  
(f) SECNAVINST 5800.13A  
(g) CHRM 773, Alternative Dispute Resolution

Encl: (1) DD Form 2815, ADR Annual Report Form

1. Purpose. To require that all Commander, Navy Installations Command (CNIC) activities use ADR procedures to resolve workplace, contractual, environmental and other issues in controversy wherever practical and consistent with the provisions of references (a) through (f).

2. Cancellation. Cancels CNIINST 5800.1.

3. Applicability. This instruction applies to the CNIC claimant, its regions, field sites and business units.

4. Background

a. References (a) through (f) set out the federal government's policies promoting the resolution of disputes with ADR techniques whenever appropriate.

b. CNIC's success is dependent on its ability to work as a team to support the fleet. Teamwork involves working with other military, civilian, and contractor personnel and organizations and frequently involves building long-term business relationships. However, even with teamwork, disputes can arise and these often escalate into formal lawsuits before

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administrative and/or judicial forums or the filing of Equal Employment Opportunity (EEO) complaints. These formal processes take time and money and distract personnel from core duties.

c. In contrast to formal judicial and/or administrative complaint and litigation processes, ADR can provide faster, less costly resolutions to disputes. The result is that time and money are saved, long-term relationships are preserved, the parties can often continue their core work with less disruption, and successful teamwork can continue.

## 5. Policy

a. ADR shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable. Every conflict and issue in controversy shall be viewed as a potential candidate for ADR. When the use of ADR is agreed to by all parties to a dispute, the appropriate ADR procedure established by CNIC to resolve the dispute shall be followed. All personnel shall consider the use of ADR to resolve conflicts and issues in controversy. In addition, management at all levels shall support the use of CNIC ADR processes.

b. Despite its benefits, ADR is not appropriate for resolving every dispute. Pursuant to reference (a), CNIC will not utilize ADR when:

(1) A definitive or authoritative resolution of the matter is needed for precedent;

(2) The matter involves significant issues of Government policy that require procedural development, and ADR will not assist policy development;

(3) Maintaining an established policy or avoiding variations among individual decisions is of special importance;

(4) The matter significantly affects non-parties;

(5) A full public record of the proceeding or resolution is important; or

(6) CNIC must maintain jurisdiction over the matter with the right to alter the resolution as circumstances demand.

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In addition to the prohibitions listed in reference (a), CNIC will not use ADR if it is not in the Government's best interest to do so.

## 6. Definitions

a. Alternative Dispute Resolution means any procedure agreed to by all parties to a controversy that uses a neutral third party individual or group to resolve issues in controversy instead of formal adjudication. ADR may include, but is not limited to, mediations, neutral evaluation and non-binding arbitration.

b. Issue in Controversy means a matter in which there is a disagreement between CNIC and some person or entity either inside or outside of CNIC or between two or more persons within CNIC.

c. Neutral Third Party means an individual or group of individuals who, with respect to an issue in controversy, have no official, financial or personal interest with respect to the parties or issue(s) in dispute, functioning instead to aid the parties in resolving the controversy.

7. Action. In order to implement the ADR policy established in this instruction:

a. The Office of General Counsel has been designated by the Navy to be the ADR program lead. Consistent with references (a) through (g), CNIC (N00L) shall appoint an ADR Program Administrator (PA).

b. CNIC's ADR Program Administrator (PA) shall:

(1) Report to Counsel (N00L) or his designee (Senior Associate Counsel, Civilian Personnel Law).

(2) Establish the CNIC ADR Program and processes for the CNIC claimant.

(3) Promote the use of ADR and coordinating overall CNIC ADR programs, processes, policies and initiatives for CNIC for all types of disputes, including workplace (EEO/civilian personnel), contractual, and environmental disputes.

(4) Prepare a budget submission following established processes to request funds necessary for training, travel and

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other costs associated with carrying out the ADR policy established by this instruction. Regional PAs will be responsible for preparing a budget submission for their program.

(5) Manage and administer funds allocated for CNIC claimant ADR programs, policies, and initiatives, including training, travel and awards.

(6) Represent the CNIC ADR Program as primary point of contact with Department of the Navy (DON) ADR Program officials, and other organizations, as appropriate.

(7) Oversee implementation of CNIC claimant ADR Program throughout CNIC, ensuring compliance with claimant program processes and policies. Evaluate CNIC regional ADR programs.

(8) Coordinate records on ADR, including statistics on ADR training attended by CNIC personnel, metrics required by reference (f), the CNIC ADR program, and other government authorities and report those metrics to the requesting organization via Office of Counsel and CNIC and as applicable, via Contracts and HROs.

(9) Ensure existing DON and CNIC ADR resources are utilized to avoid unnecessary duplication, in accordance with paragraph 5.b.(2) of reference (f).

c. The CNIC PD for Human Resources, the CNIC Director of Civilian Personnel Programs (DCPP), shall designate a Deputy ADR PA for Workplace, to serve as the ADR coordinator for CNIC Headquarters. Within 30 calendar days of the effective date of this instruction, the PD for Human Resources (DCPP) shall direct all CNIC Regional Human Resource Directors (HRDs) to designate a Deputy ADR PA for Workplace to serve in a similar capacity within the respective CNIC Regional Office. These ADR Coordinators are responsible for performing the tasks found in paragraph 5.1 of reference (g), and paragraph 7.e of this instruction in support of ADR for workplace disputes throughout the CNIC claimant.

d. CNIC Regional Deputy ADR Program Administrator (PA) shall:

(1) Implement and manage CNIC regional ADR Program in compliance with CNIC claimant ADR processes and policies.

(2) Promote the day-to-day use of ADR within the region.

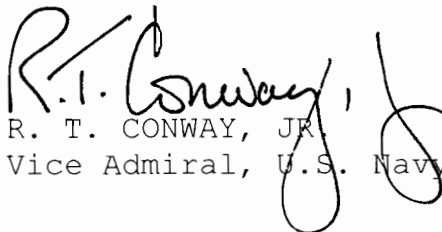
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(3) Prepare and submit to the CNIC ADR Program Administrator, in collaboration with the Regional Commander, an annual budget request for costs associated with local implementation of CNIC ADR policy established by this instruction.

(4) Collect and report information, as required by reference (f) and as directed by the CNIC ADR PA, to the CNIC Deputy ADR PA. Such information is to be submitted on enclosure (1), at least annually.

8. Recordkeeping Requirements. All metrics required by CNIC ADR programs and reference (f) shall be collected by the CNIC Deputy ADR PAs and forwarded to the CNIC ADR PA for final coordination, reporting and maintenance. Per reference (g), HROs shall ensure ADR personnel use the ADR tracker database and convening system.

9. Review. This instruction shall be reviewed as deemed appropriate by the CNIC ADR Program Administrator, with input from the Deputy ADR Program Administrators.

  
R. T. CONWAY, JR.  
Vice Admiral, U.S. Navy

Distribution:

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|  |                                       |
|--|---------------------------------------|
| <b>ALTERNATIVE DISPUTE RESOLUTION (ADR) ANNUAL REPORT</b><br>FISCAL YEAR _____ | REPORT CONTROL SYMBOL<br>DD-GC(A)2099 |
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**REPORTING ACTIVITY**

|  |                                     | EEO | WORKPLACE<br><i>(Labor-<br/>Management)</i> | WORKPLACE<br><i>(Other)</i> | PROCURE-<br>MENT | ENVIRON-<br>MENTAL | CLAIMS | OTHER |
|--|-------------------------------------|-----|---|-----------------------------|------------------|--------------------|--------|-------|
| TOTAL NUMBER OF ADR EVENTS                 |                                     |     |   |                             |                  |                    |        |       |
| NUMBER OF ADR EVENTS BY METHOD:            |                                     |     |   |                             |                  |                    |        |       |
|  | BINDING ARBITRATION                 |     |   |                             |                  |                    |        |       |
|  | CONCILIATION                        |     |   |                             |                  |                    |        |       |
|  | EARLY NEUTRAL EVALUATION            |     |   |                             |                  |                    |        |       |
|  | FACILITATION                        |     |   |                             |                  |                    |        |       |
|  | MEDIATION                           |     |   |                             |                  |                    |        |       |
|  | NON-BINDING ARBITRATION             |     |   |                             |                  |                    |        |       |
|  | OMBUDS                              |     |   |                             |                  |                    |        |       |
|  | SETTLEMENT JUDGE                    |     |   |                             |                  |                    |        |       |
|  | SUMMARY TRIAL WITH BINDING DECISION |     |   |                             |                  |                    |        |       |
|  | OTHER                               |     |   |                             |                  |                    |        |       |
| NUMBER OF SETTLEMENTS REACHED BY ADR       |                                     |     |   |                             |                  |                    |        |       |
| NUMBER OF ADR EVENTS BY SOURCE OF NEUTRAL: |                                     |     |   |                             |                  |                    |        |       |
|  | COMPONENT                           |     |   |                             |                  |                    |        |       |
|  | DOD <i>(Non-Component)</i>          |     |   |                             |                  |                    |        |       |
|  | GOVERNMENT                          |     |   |                             |                  |                    |        |       |
|  | PRIVATE SECTOR                      |     |   |                             |                  |                    |        |       |
| NUMBER OF COMPLAINTS THAT GO FORMAL        |                                     |     |   |                             |                  |                    |        |       |

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**NARRATIVE** *(Attach additional sheets as necessary)*

- Describe lessons learned from use of ADR
- Provide points of contact for each issue or lesson
- Other information as appropriate

**REPORT PREPARED BY**

| NAME <i>(Last, First, Middle Initial)</i> | TELEPHONE NUMBER<br><i>(Include area code)</i> | SIGNATURE | DATE <i>(YYYYMMDD)</i> |
|---|--|-----------|------------------------|
|   |  |           |                        |

**ALTERNATIVE DISPUTE RESOLUTION (ADR) ANNUAL REPORT  
INSTRUCTIONS**

**Reporting Activity.** Identify the DoD component reporting. (Use one form for each major command or similar activity, where appropriate.)

**Columns by Major Subject Category:** (Complete only for those categories applicable)

**EEO.** Include both formal and informal EEO complaints.

**Workplace (Labor-Management).** Include grievances pursuant to a collective bargaining agreement (negotiated grievance procedure), unfair labor practices (ULPs), impasses, negotiability disputes and other undefined disputes addressed in a labor-management context.

**Workplace (Other).** Include grievances pursuant to an agency administrative grievance procedure, MSPB appeals, and other disputes between employees and management.

**Procurement.** Include ASBCA appeals, bid protests (agency and GAO), contract claims, and federal court cases.

**Environmental.** Include use of ADR to address environmental laws and regulatory requirements/liabilities arising from a DoD agency or military service's execution of its mission. Address a broad spectrum of ADR procedures, including facilitation of initiatives to avert litigation through consensus building. These ADR procedures may be used both before and after initiation of litigation to resolve allocation of liabilities between DoD agencies/military services and others. ADR initiatives can be used in both administrative tribunals and the courts to resolve allegations of environmental non-compliance brought against a DoD agency/military service.

**Claims.** Include federal tort claims, employee entitlements (e.g. travel claims), property damage claims, reports of survey, and household goods loss and damage claims.

**Other.** Specify other areas where ADR was used in your component.

**Total Number of ADR Events.** Include all methods. An ADR Event is defined as a meeting or series of meetings between the disputing parties, jointly or individually, and a third party neutral using one of the ADR methods to work towards resolution.

**Number of Events By ADR Method:**

**NOTE:** If your component uses a definition that is different than a definition below, state your definition and any other relevant information in the Narrative.

**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 an arbitration panel serve as a "private judge" to render an informed decision based on the merits of the dispute. The decision of the arbitrator may be **binding** (Note 1) (always the case in federal labor-management disputes) or **non-binding**.

**Note 1:** Although the Alternative Dispute Resolution Act authorizes binding ADR processes, an agency must have approved guidance prior to using a binding process unless there is other express statutory authority to conduct the binding process.

**Conciliation.** A problem-solving 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. The conciliator may or may not be totally neutral to the interests of the parties. This technique often is used prior to other ADR techniques, such as facilitation and mediation.

**Early Neutral Evaluation.** An ADR technique which involves informal presentation by the parties to a neutral third party with respected credentials for an oral or written evaluation of the parties' positions. The evaluation of the strengths and weaknesses of the parties' positions on a specific issue may be binding or non-binding. This technique is usually initiated immediately after a problem arises.



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**ALTERNATIVE DISPUTE RESOLUTION (ADR) ANNUAL REPORT  
INSTRUCTIONS (Continued)**

**Facilitation.** A flexible process in which the parties are assisted by a third party neutral in interest-based negotiations toward a resolution. The neutral, called a facilitator, provides procedural direction to enable the parties to effectively move through negotiation towards agreement. When used for conflict resolution, the facilitator's focus is on procedural assistance. Facilitation efforts frequently do not produce written settlement agreements, but should be counted for purposes of this report.

**Mediation.** A favored ADR technique, in which parties are assisted by a neutral third party, 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. Mediation techniques vary and may be procedural, evaluative, or both. One common practice is for the mediator to separate the parties and meet with them separately and, in effect, engage in interest-based bargaining with them. Because the mediator usually cannot impose a settlement and because he or she is expected to keep confidences, each party is more willing to be open with the mediator than with the other party. Because of this greater openness, the mediator is often able to see areas of possible agreement that the parties are unable to see in direct, unmediated, negotiations.

**Ombuds.** A process in which an organizationally designated person confidentially receives, investigates, and facilitates resolution of sensitive complaints. Ombudspersons often work as management advisors to identify and recommend solutions for systemic problems in addition to their focus on disputes from individual complainants.

**Settlement Judge.** A judicial ADR technique 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.

**Summary Trial with Binding Decision.** A judicial ADR technique used by federal government Boards of Contract Appeals. In this process, the parties make a summary presentation to an administrative judge, who renders a binding decision.

**Other.** Provide in this section a descriptor of the ADR method used. In the Narrative, provide a definition of the method.

**Number of Settlements Reached by ADR.** Self-explanatory.

**Number of ADR Events by Source of Neutral:**

**Component.** The neutral is an employee/member of the Reporting Activity.

**DoD (Non-Component).** The neutral is an employee/member of a DoD Activity other than the Reporting Activity.

**Government.** The neutral is an employee of a federal agency other than DoD.

**Private Sector.** The neutral is not a government employee.

**Number of Complaints that Go Formal.** Report only for EEO.

**Narrative.** Describe lessons learned from use of ADR, providing points-of-contact for each issue or lesson described; and provide other information as appropriate, including a definition that differs from that described above.

**Report Prepared By.** Include name, telephone number, signature of preparer, and date the report is prepared.