

Alternative Dispute Resolution

Utah Reclamation Mitigation and Conservation Commission

Alternative Dispute Resolution Basics

Alternative Dispute Resolution (ADR) is a method of resolving conflict in a collaborative rather than adversarial manner. ADR seeks to avoid continuation of the EEO administrative complaint process (informal/formal complaint, investigation, hearing, appeal, and reconsideration) as well as civil action, including the costs and time associated with each in favor of an early resolution of the complaint. ADR offers the parties the opportunity for an early, informal resolution of disputes in a mutually-satisfactory fashion. Rather than receiving a decision from an unknown third party, such as an administrative judge, the parties have the opportunity to write their own agreement in a manner which satisfies both of their needs. Not only does ADR provide a win-win resolution for the parties, but it usually costs less and uses fewer resources than traditional administrative or adjudicative processes

ADR Core Principles

The overriding requirement of the ADR program is that it must be fair which requires that it is:

1. **Voluntary** - the parties to ADR knowingly and voluntarily enter the process and may end it at any time, and the aggrieved party retains the right to proceed with the administrative complaint process at any time prior to resolution
2. **Confidential** - all parties to ADR must maintain strict confidentiality, which means any notes taken during ADR must be destroyed and the only individuals to receive information about the proceedings will be those with a need to know in order to reach, implement or enforce a resolution (what happens in ADR, stays in ADR)
3. **Enforceable** - a resolution agreement is useless if it can't be implemented and enforced, so it may be necessary to consult outside experts such as Human Resources, the Office of the Solicitor, union representatives or others when drawing up the terms of the resolution agreement
4. **Neutral** - ADR must be an absolutely impartial process independent of control or improper influence by the disputing parties

Management is required to participate in the process in good faith even though the program is voluntary. However, management is not required to agree to resolution terms it determines are unacceptable

How ADR Works

There are many forms of ADR, but the method that is probably best suited for an EEO dispute is mediation. During mediation, a mediator acts as a neutral third party to help the parties to a dispute reach a mutually satisfactory resolution.

The parties to mediation will be the aggrieved person (the person alleging discrimination) and a management official with settlement authority. If the respondent or responding management official does not have settlement authority, he/she might not be a party to ADR or, if a person with settlement authority does not actually participate directly in the ADR session(s), such a person must be available to approve terms of resolution.

The mediator may meet with each party individually as needed, but the real work in mediation occurs when the disputing parties meet face-to-face to explore options and develop their own win/win solution to the problem together. The mediator's principal role is to assist the parties in resolving the complaint, but the mediator will also: (1) make sure all parties understand their rights and responsibilities in the process, (2) ensure the process is consistent with the core principles of ADR, (3) coordinate the input of outside experts as necessary, and (4) ensure the resolution, if any, is put in writing and signed by all parties after appropriate review and approval.

During the informal complaint process, the agreement is called a Resolution Agreement. During the formal complaint process, the agreement is called a Settlement Agreement. Both a Resolution Agreement and Settlement Agreement must be reviewed by Reclamation's Civil Rights Office. If approved, the agreement is signed by the parties and appropriate management officials, and the case is closed.

The focus on face-to-face meetings is the principal procedural difference between dispute resolution in ADR and EEO counseling. The EEO counselor's role is facilitation, not mediation. He/She facilitates the exchange of information between the disputing parties, often relaying information and offers back and forth. A counselor might never bring the parties together face-to-face.

CADR and CORE PLUS

CADR (Office of Collaborative Action and Dispute Resolution) is the Department of the Interior's conflict management and dispute resolution office. It oversees the CORE PLUS (CONflict RESolution PLUS EEO) program, which is a one-stop conflict resolution program available to Utah Reclamation Mitigation and Conservation Commission employees. CORE PLUS replaces two earlier programs: CORE (operated by Human Resources) and EEO Plus (operated by the Office of Civil Rights).

The CORE PLUS program utilizes certified, experienced mediators. It covers all Department of the Interior and Utah Reclamation Mitigation and Conservation Commission employees regardless of type and tenure of appointment.

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