

DEPARTMENT OF THE NAVY
Office of the Secretary
1000 Navy Pentagon
Washington DC 20350-1000

SECNAVINST 5800.13
OGC
11 December 1996

SECNAV INSTRUCTION 5800.13

From: Secretary of the Navy
To: All Ships and Stations

Subj: ALTERNATIVE DISPUTE RESOLUTION (ADR)

Ref: (a) Administrative Dispute Resolution Act of 1996
(b) DoD Directive 5145.5 "Alternative Dispute Resolution (ADR)," 22 Apr 96 (NOTAL)
(c) Federal Acquisition Regulations Part 33
(d) Executive Order 12988, "Civil Justice Reform," 5 Feb 96
(e) Executive Order 12871, "Labor-Management Partnership," 1 Oct 93
(f) Report of the National Performance Review, "Creating a Government that Works Better & Costs Less," 7 Sep 93
(g) Equal Employment Opportunity Commission Policy Statement "EEOC: Alternative Dispute Resolution Policy," 17 Jul 95
(h) Executive Order 12979, "Agency Procurement Protests," 25 Oct 95

1. Purpose. To provide a comprehensive Department of the Navy (DON) policy for the implementation of Alternative Dispute Resolution (ADR) and assign responsibilities and establish goals for the use of ADR within the DON under references (a) through (h).

2. Applicability

a. This instruction applies to all activities of the DON.

b. This instruction does not create any rights or reservations and may not be relied on by any person, organization, or any other entity to allege a denial of any rights or reservations.

3. Definitions

a. Activity. A unit of the Department of the Navy, of distinct identity, and established under an officer in command or in charge. 32 C.F.R. Sec. 700.105(m).

b. ADR. Any procedure which is used in lieu of a formal process or litigation to resolve conflicts and issues in controversy, including, but not limited to, partnering, conciliation, facilitation, mediation, ombudsmanship, fact finding, mini-trials, neutral evaluation, and arbitration or any combination thereof.

c. ADR Working Group. A diverse body of DON representatives assisting with the coordination and implementation of ADR policy and serving as an information and training clearinghouse for DON activities.

d. Issue in Controversy. Any issue where there is disagreement between the DON and a person(s) outside the department or between two or more persons within the department.

e. Dispute Resolution Specialist. Responsible for the overall ADR policy and initiatives within DON. Oversees the activities of the Deputy Dispute Resolution Specialist.

f. Deputy Dispute Resolution Specialist. Responsible for the day-to-day coordinating the use of ADR within an activity.

g. Activity Dispute Resolution Specialist. Responsible for promoting and coordinating the use of ADR within an activity.

4. Policy. ADR techniques shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable. Use of these techniques may resolve the entire issue in controversy or a portion of the issue in controversy. The goal is to resolve disputes and conflicts at the earliest stage feasible, by the fastest and least



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expensive method possible and at the lowest possible organizational level prior to litigation. Every conflict and issue in controversy, regardless of the subject matter, is a potential candidate for ADR. All personnel shall consider and encourage the use of ADR to resolve conflicts and issues in controversy.

5. Action

a. Commanders and heads of Echelon 1 and 2 activities shall:

- (1) Issue local ADR guidance;
- (2) Coordinate local ADR guidance through consultation with the ADR Working Group;
- (3) Designate the activity dispute resolution specialist (ADRS). (Activities may enter into an agreement with another part of the DON to meet this requirement or may assign the responsibilities as a collateral duty);
- (4) Provide training for the ADRS and selected personnel; and
- (5) Submit a report by the end of November each year describing the activity's use of ADR techniques during the preceding fiscal year. The report, submitted to the Deputy Dispute Resolution Specialist, shall include types of ADR techniques used, the total number of ADR processes attempted, the success rate and any barriers to the use of ADR. The report shall also include ADR usage of subordinate activities. The format for the report will be distributed separately by the Deputy Dispute Resolution Specialist.

b. Commanders and heads of all activities shall:

- (1) Periodically review their existing approaches to dispute resolution, and, where

feasible, foster use of ADR techniques by identifying and removing unnecessary barriers to the use of ADR; and

- (2) Use existing government ADR resources to the extent practicable to avoid unnecessary duplication of time and money.

c. General Counsel of the Navy shall designate a senior official to serve as the DON Dispute Resolution Specialist and a person to serve as the DON Deputy Dispute Resolution Specialist.

d. Dispute Resolution Specialist shall coordinate overall ADR policy and initiatives within the DON.

e. Deputy Dispute Resolution Specialist shall:

- (1) Coordinate daily activities involving ADR policy and initiatives in the DON;
- (2) Act as the Chairperson for the ADR Working Group;
- (3) Act as the DON contact on ADR matters; and
- (4) Serve as the DON member on the Department of Defense ADR Coordinating Committee.

f. Alternative Dispute Resolution Working Group shall:

- (1) Facilitate the sharing of ADR information throughout the DON;
- (2) Ensure activities are aware of and have access to existing ADR resources;
- (3) Coordinate the development of ADR programs; and
- (4) Review information from activities to evaluate the implementation of ADR within DON.

6. Report. The reporting requirement contained in paragraph 5.a.(5) is exempt from reports control by SECNAVINST 5214.2B.

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