



Department of Defense

DIRECTIVE

April 22, 1996
NUMBER 5145.5

SUBJECT: Alternative Dispute Resolution (ADR)

GC , DoD

- References:
- (a) Executive Order 12988, "Civil Justice Reform," February 5, 1996
 - (b) Report of the National Performance Review, "Creating A Government That Works Better & Costs Less," September 7, 1993
 - (c) Chapter 71 of title 5, United States Code, "The Federal Service Labor-Management Relations Statute"
 - (d) Executive Order 12871, "Labor-Management Partnerships," October 3, 1993

A. PURPOSE

This Directive establishes policy to implement references (a) and (b); assigns responsibilities; creates the ADR Coordinating Committee; and establishes a framework for encouraging the expanded use of ADR within the Department of Defense. Establishment of ADR procedures for Federal employees represented by unions under reference (c) shall be subject to the requirements of references (c) and (d).

B. APPLICABILITY AND SCOPE

This Directive:

1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").
2. Does not create any rights or reservations and may not be relied on by any person, organization, or other entity to allege a denial of any rights or reservations.

C. DEFINITIONS

1. **Alternative Dispute Resolution (ADR)**. Any procedure that parties agree to use, instead of a formal adjudication, to resolve issues in controversy, including, but not limited to, settlement negotiations, conciliation, facilitation, mediation, fact-finding, **minitrials**, and arbitration, or any combination thereof.
2. **Alternative Dispute Resolution (ADR) Coordinating Committee**. A group consisting of representatives of DoD Components assisting with the coordination of Component ADR program implementation and the exchange of information on ADR among DoD Components.

D. **POLICY**

The DoD ADR policy is that:

1. Each DoD Component shall establish and implement ADR policies and programs. Each Component shall make use of existing government ADR resources to avoid unnecessary expenditure of time and money.
2. All DoD Components shall use ADR techniques as an alternative to litigation or formal administrative proceedings whenever appropriate. Every dispute, regardless of subject matter, is a potential candidate for ADR.
3. Each DoD Component shall review its existing approaches to **dispute** resolution, and, where feasible, foster increased use of ADR techniques. Components shall identify and eliminate unnecessary barriers to the use of ADR.

E. **RESPONSIBILITIES**

1. **The General Counsel of the Department of Defense:**

- a. Shall monitor the Department of Defense's ADR effort and shall chair the ADR Coordinating Committee, which shall consist of the dispute resolution specialists or designees of:
 - (1) Department of the Army.
 - (2) Department of the Navy.
 - (3) Department of the Air Force.
 - (4) Defense Agencies and DoD Field Activities selected by the General Counsel of the Department of Defense (OC, DoD) or designee.
- b. May select for membership on the ADR Coordinating Committee:
 - (1) The chairs of any working groups the ADR Coordinating Committee creates.
 - (2) Other DoD officials with ADR-related responsibilities.
- c. Shall ensure that the ADR Coordinating Committee shall:
 - (1) Facilitate the sharing of ADR information among the DoD Components, including assembling and publicizing DoD ADR information.
 - (2) Assist the DoD Components in "the design and implementation of ADR programs.

(3) Establish DoD-wide working groups and take other steps to coordinate and facilitate ADR programs.

(4) Request information from DoD Components to evaluate the progress of ADR activities within the Department of Defense.

(5) Provide reports to the Secretary of Defense on the use of ADR within the Department of Defense as determined necessary.

d. Shall ensure that the Defense Office of Hearings and Appeals shall:

(1) Provide administrative support for the activities of the ADR Coordinating Committee.

(2) Work under the supervision of the GC, DoD, and OSD dispute resolution specialist to implement this Directive.

2. The Head of each DoD Component shall:

a. Ensure implementation of E.O. 12988 and the ADR provisions in the National Performance Review (references (a) and (b)).

b. Provide representatives and information to the ADR Coordinating Committee and working groups as requested.

c. Provide copies of implementing procedures to the GC, DoD, or designee.

d. Appoint a dispute resolution specialist and provide training for the specialist and selected Component personnel.

e. Provide sufficient resources to fulfill the responsibilities enumerated herein.

F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the General Counsel of the Department of Defense within 120 days.


John P. White
Deputy Secretary of Defense