



**Court Services and Offender Supervision Agency
 Pretrial Services Agency
 for the District of Columbia
 Office of the Director**

POLICY STATEMENT

Alternative Dispute Resolution Program
 Number: 1005
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Richard Tischner
 Director, CSOSA

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Leslie C. Cooper
 Director, PSA

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Overview

Background

The Court Services and Offender Supervision Agency (CSOSA) and Pretrial Services Agency for the District of Columbia (PSA), (or collectively, the Agency) recognize that there are effective methods to resolve workplace disputes other than reliance upon adversarial administrative processes. The Agency's Alternative Dispute Resolution (ADR) program emphasizes the voluntary use of ADR to resolve workplace disputes at the:

- Earliest opportunity;
- Lowest organizational level;
- In a manner that assures the parties of neutrality and fairness; and
- To the mutual satisfaction of all parties.

The Administrative Dispute Resolution Act ("ADRA") was enacted in 1990 (P.L. 101-552), and amended in 1996 (P.L. 104-320). It requires federal agencies to promote the use of ADR. The Equal Employment Opportunity Commission's (EEOC) regulations at [29 C.F.R. § 1614.102 \(b\)\(2\)](#) also require agencies to establish or make available an ADR program in conjunction with processing pre-complaints and formal complaints of discrimination.

This Policy Statement (PS) governs the administration of the Agency's ADR program.

Summary of Changes

- Separation of policy from procedures.
 - Inclusion of roles and responsibilities.
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Relationship to other processes

Engagement in the ADR process **does not** replace any legal or administrative avenues of redress available to employees or suspend the filing requirements for other dispute resolution processes. Therefore, it is incumbent on employees to take all necessary actions to preserve their rights.

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Overview, Continued

Coverage	This Policy Statement applies to all CSOSA and PSA employees (non-supervisory, supervisory, managerial, and senior executives), who seek resolution for a workplace dispute. Certain provisions of this policy also apply to applicants for employment with the Agency.
Authorities	<ul style="list-style-type: none">• The Administrative Dispute Resolution Act of 1996, 5 U.S.C. § 571• Title VII of the Civil Rights Act of 1964• 29 C.F.R., Part 1614
Supersedes	This Policy Statement supersedes PS 1005, <i>Alternative Dispute Resolution</i> dated April 5, 2006.
References	<ul style="list-style-type: none">• HRD 771.1 (02/26/2001) – Conflict Resolution Procedure (CSOSA only)• PS 1012 (06/17/2014) – Equal Employment Opportunity and Diversity (CSOSA and PSA)• PS 4105 (07/01/2015) – Anti-Harassment (PSA only)• PS 4130 (01/09/2018) – Conflict Resolution (PSA only)• PS 1510 (09/14/2020) – Anti-Harassment (CSOSA only)
Administrator	The CSOSA Office of Alternative Dispute Resolution (OADR) is responsible for the contents of this policy.

Policy

ADR Program

- The Agency's ADR program is organizationally located within the immediate Office of the Director, CSOSA.
- The Agency's ADR program provides:
 - An opportunity for a confidential and informal resolution of employee concerns at the lowest possible level, while allowing the parties to participate actively in the settlement of workplace disputes; and
 - An informal and speedy alternative to the traditional EEO process by providing ADR to aggrieved applicants and employees during the EEO pre-complaint and formal process.
- The ADR program adheres to core principles and is:
 - Voluntary;
 - Neutral;
 - Confidential;
 - Flexible; and
 - Designed to help the parties potentially reach an enforceable settlement agreement.
- CSOSA and PSA offer mediation to resolve workplace disputes by providing a confidential process that involves a neutral third-party who assists parties in resolving disputes. During this process the following applies:
 - All parties must participate in good faith;
 - Any party has the right to opt-out of the process for any reason and at any point before the parties sign a settlement agreement; and
 - Under no circumstances will a party be forced to accept the other party's offer to resolve the dispute.
- ADR activities are confidential. Neutrals must, to the maximum extent permissible by law, keep information given to them confidential unless given permission by all parties to use the information for specific purposes. However, neutrals must report matters of gross misconduct, criminal conduct, or other significant violations of law.

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Policy, Continued

Using the ADR Program

The ADR program is available to resolve various types of workplace disputes.

Examples of common disputes and issues generally eligible for ADR:

- Disputes between and among employees, managers, and co-workers; or
 - Disputes involving an employee's working conditions, terms and conditions of employment, reasonable accommodations, personnel actions; and
 - Allegations of employment discrimination.
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Settlement Agreement

- The parties must voluntarily agree to the terms of the Settlement Agreement.
 - Settlement Agreements deemed legally sufficient by the Office of General Counsel (OGC) are enforceable by the parties.
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Representation

- Representation is not required for ADR participation; however, employees and managers can elect to have representation throughout the ADR process.
 - Representatives can include, but is not limited to, union officials, attorneys, or relatives.
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Definitions

**Alternative
Dispute
Resolution
(ADR)**

A method of resolving disputes by implementing a variety of techniques, methods, or processes involving a neutral third-party, which are used as alternatives to traditional dispute resolution processes. ADR techniques include, but are not limited to, facilitation and mediation.

**Bargaining Unit
Employee (BUE)**

An employee included in an exclusive bargaining unit. A bargaining unit is a group of employees that a union represents (or seeks to represent) and that the Federal Labor Relations Authority (FLRA) finds appropriate for collective bargaining purposes.

Dispute

A disagreement between an employer and an employee or between two or more employees which is connected with the terms of employment, the conditions of labor or with the rights or duties of either an employer or an employee.

Facilitation

A form of ADR. Facilitation is a communication technique used to improve the sharing of information in a meeting between parties to a dispute. Facilitation focuses on providing procedural assistance to the parties to assist in resolving a dispute.

**Good Faith
Effort**

An effort by the party to honestly, sincerely, and fully discuss problems and matters in conflict, and to explore solutions to those problems or conflicts.

**Legal
Sufficiency**

All final settlement agreements require a legal sufficiency review. Reviews are conducted by the OGC to ensure that the contents of a settlement agreement are legal and enforceable. PSA's Office of Legal Services reviews all settlement agreements for its employees.

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Definitions, Continued

Mediation A form of ADR. A voluntary, informal, confidential process whereby a trained neutral third-party mediator assists the disputing parties in reaching a mutually acceptable solution in a manner that is different from traditional litigation.

Neutral An impartial individual designated to provide ADR services and assist the parties in resolving workplace disputes.

Party An employee or manager who participates in the ADR process.

Representative An individual chosen by the employee or management and who has agreed to represent that party in resolving issues/ concerns.

Settlement Agreement The written agreement setting forth the terms of the resolution reached by the parties during the ADR process.

Roles and Responsibilities

Employees

- Raise issues/concerns as early as possible and attempt to resolve them with other employee(s) or supervisor(s) prior to seeking support from OADR.
 - Consult and seek information from OADR if the dispute cannot be resolved between the parties.
 - Participate in good faith in mediation or other agreed-upon processes or efforts.
 - Attend required ADR trainings.
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Managers and Supervisors

- Maintain open and consistent communication with employees, clarify misunderstandings, if appropriate, and make reasonable adjustments to address workplace problems and conflicts at the earliest opportunity.
 - When appropriate, attempt to resolve issues and concerns with employees prior to seeking support from OADR. As needed, consult with and seek support from OADR.
 - Ensure that manager's and supervisor's representative in the ADR process has authority to settle, and that no management or Agency official directly involved in the dispute serves as the person with settlement authority.
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Senior Executive Leadership

- Support the ADR program by notifying all managers, supervisors, and employees of the ADR assistance available; the types of workplace disputes appropriate for ADR, and the procedures for bringing concerns to the attention of their supervisors or through this program.
 - Ensure that management's representative in the ADR process participates in good faith in mediation or other dispute resolution efforts and has authority to settle matters on behalf of the Agency.
 - Ensure employees at all levels receive ADR training.
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Roles and Responsibilities, Continued

**Office of
Alternative
Dispute
Resolution
(ADR)**

- Establishes the ADR program and implements the program through this policy and relevant procedures.
 - Provides informal and neutral assistance to employees to address and resolve work-related disputes.
 - Provides consultation, coaching, training, mediation, and facilitation services as appropriate, when requested, and to help resolve work-related disputes.
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**Office of Equal
Employment
Opportunity
(OEEO)**

- Receives and investigates all EEO-based harassment and/or retaliation complaints filed under 29 CFR Part 1614.
 - Ensures that ADR is offered to employees at the pre-complaint and formal stages of the EEO complaint process when an employee raises an issue of discrimination under one or more protected bases (race, color, religion, gender, sexual orientation, age, national origin, disability, and genetic information).
 - Ensures that EEO counselors receive training on the ADR program and their role of providing guidance to employees and managers on the complaint process and ADR options.
 - Provides review of proposed ADR agreements reached during the EEO complaint process.
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**CSOSA Office of
Financial
Management
(OFM)/ PSA
Office of
Finance and
Administration
(OFA)**

- Reviews settlement agreements involving financial obligations before the final approval.
 - Ensures CSOSA and PSA bear costs of operating the Agency's ADR program, as deemed appropriate.
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**Office of
General Counsel
(OGC) and PSA's
Office of Legal
Services)**

Conducts legal sufficiency review of all ADR settlement agreements.

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Roles and Responsibilities, Continued

CSOSA Office of Human Resources (OHR)/ PSA Office of Human Capital Management (OHCM)

- Provides technical advice or assistance to OADR as needed, and provides review of proposed agreements, as appropriate.
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Office of Professional Responsibility (OPR)

- Receives all non-EEO-based workplace harassment, employee misconduct and/or retaliation complaints.
 - Conducts administrative investigations in connection with reports of alleged non-EEO-based workplace harassment or employee misconduct, which could lead to disciplinary actions, adverse actions, or referrals for criminal prosecution.
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CSOSA and PSA Training and Career Development

Provides training related to this policy as mandated for federal employees.

CSOSA Director/ PSA Director

Reviews and approves all ADR settlement agreements.
