



NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees
AFFILIATED WITH THE AFL-CIO
ALMA L. LEE, President
MEMORANDUM

DATE: April 27, 1998

To: AFGE Local Presidents

From: Alma L. Lee, President, NVAC *Alma L. Lee*

SUBJ: Guidelines for Development/Implementation of Alternate Dispute Resolution

1. Alternate Dispute Resolution (ADR) is a term that many of us are familiar with and a process that some of us are using. While many of our day-to-day problems are worked out in one-on-one discussions, with no grievance or complaint ever being filed, there are some issues that just cannot be resolved in that manner; hence, they continue to fester and escalate. We know that ADR techniques can provide our members with faster, less informal and less adversarial solutions to many workplace problems.
2. In the past two years we have come to understand that one type of ADR/Mediation is a particularly useful tool in our "toolbox" of conflict resolution options. Mediation is where the parties use the services of a

specially trained, neutral person who is acceptable to all, called a mediator, to help them find a mutually agreeable solution to their problem. It is informal, voluntary and confidential. Mediation does not take away any rights of an individual; it simply adds an alternate way of resolving disputes. If mediation does not work, the parties simply go back into the traditional systems for resolving disputes, i.e., arbitration and litigation. Mediation is particularly useful in the early stages of a problem, even before it has been labeled and placed in the grievance, ULP, or EEO system.

3. AFGE negotiated important provisions that are contained in Article 6 of the VA-AFGE Master Agreement that give us a vital role in helping develop and implement ADR and mediation programs within the VA. Article 6 provides that "[a]ny ADR process must be jointly designed by Union and Management." AFGE and our national management partners are committed to using ADR problem-solving methods as a priority to resolve disputed matters. Additionally, Article 6 provides that ADR is voluntary and "employees may utilize the ADR process to resolve individual concerns with the mutual consent of Union and Management. Thus, in individual cases involving bargaining unit employees, AFGE has a right to be involved in the decision of whether ADR/Mediation is an appropriate way to resolve the dispute, and has the right to participate in the actual mediation sessions.

4. Lately, we have been hearing a lot about mediation in the VA and other federal agencies, and we expect to see even more programs being started at VA facilities. Some of you may have even helped institute an ADR or mediation program at your facility, and aided with training and representation. I know that establishing a successful ADR/mediation program can be a lot of hard work, but the rewards of working together to resolve problems are often worth the effort. I believe that a collaboratively-developed local (or shared) ADR/Mediation program has a lot of potential for resolving a variety of workplace disputes in VA facilities.

5. If you are asked to participate in ADR/Mediation awareness training, or in developing an ADR/Mediation program at your facility, I urge you to keep an open mind and play an active role. Union, management, members and employees all have an interest in making mediation successful at the facility, and helping to create a program that will meet our needs. This involves a commitment, not only in creating the program, but making it work once it is in place.

6. While there are many common characteristics in ADR programs, every

program developed should be tailored to meet the facility's own individual culture, needs, problems and resources. I am enclosing with this letter a package we created containing several items that I hope you will find useful in helping ADR to "take hold" in your facility. Please review these materials for ideas that you believe might work for your facility.

7. There are several individuals throughout the VA whom I recommend you contact for help and information about the various ADR and mediation programs within the VA. In helping design and implement a mediation program for my Network (VISN 6), I have found Pat Sheridan (202-273-6743) in the VA's Office of the Dispute Resolution to be particularly helpful. Pat facilitates design workshops and has helped train our Executive Council in team building, ADR and conflict resolution. Fred Conway (202-273-8631) and Tony Belak (502-582-5871) are excellent resources in the Office of General Counsel, particularly for training. For local union roles and perspectives on ADR, contact Brian Flynn, AFGE Local 1020 (765-674-5396), or G. O. Herzog, Local 2654 (209-225-6100, X4339), or Louis Hudson in my office (540-345-6301). The VA also maintains a very informative ADR/Mediation website on the intranet at <http://vaww.va.gov/adr/index.htm>, and on the internet at <http://www.va.gov/adr/index.htm>.

8. I feel that it would be beneficial for union, management, and employees at VA facilities (and within VA organizations) to use mediation locally. Correcting problems as early as possible will no doubt be less costly in terms of time, money, workplace disruption and morale. Thus, mediation makes good business sense for all of us. Many innovative VA and union leaders realize this and have already begun local mediation programs at their facilities. I believe more good results will follow.

9. I urge each of you to seriously consider helping initiate and support a local mediation program at your facility. I believe that local mediation programs can make a difference in how VA does business and become an "employer of choice." AFGE leaders secure their fixture by helping to reshape the workplace.

Att. (3): Partnership Memo No 97-001
VISN 6 Memo No. 97-003
ADR Resolution, Salem, Va.

pc: AFGE Field Svc. Director

AFGE NATIONAL ADR PROGRAM CHECKLIST

Research and Initiation

- Contact various organizations and groups within the facility to see what, if anything, has been done about ADR at the facility (check HRM, EEO, Director's office). Check to see if there are any "future plans" for ADR in the facility that can be "sped up." Check with other VA facilities (both VHA and VBA) in area to see if they are doing anything in ADR, or if there is any interest and resources in the area.
- Ask the Director what he or she thinks about instituting an ADR program.
- Ask the Director to establish a small "ADR Core Group" or a larger "ADR Working Group" with union and management representation to consider whether an ADR program should be instituted at the facility. For early decision making the smaller "Core Group" is easier to work with, and for actual training purposes the "Working Group" is better. Offer to co-chair the group with a top management official.
- Work with management to determine who should be part of the ADR Group (i.e., who is needed to make the decisions on ADR and to help get an ADR program off to a good start).
- Contact ADR resources (see my letter) to discuss what is being done in VA and what you can do to help get ADR at your facility. Use these individuals to help develop a "game plan." Sometime conference calls with other Group members work well here.
- Each Regional Counsel office has an attorney in their office that specializes in ADR and can tell you and other group members what is happening in the area and what training might be available. Have that attorney come out to talk to a group of union and management (ADR Group) about what is possible.

- Discuss with management the possibility of getting some ADR awareness training. Generally the facility has to pay the travel and per diem of the VA trainers.

Design and Development

- Help sponsor a meeting of (or conduct awareness training for) the ADR Group to discuss what resources are available, what a possible program might look like, and where to go from here.
- Help the Group realize and take advantage of available resources to help it design an ADR program that will meet their needs.
- Actively participate in designing a program.
- Actively participate in subgroups and the various projects that need to be done in getting an ADR program started.
- Help the Group to establish realistic goals and milestones and try to be sure to meet any milestones you have helped establish. Try to help keep the effort "alive," and moving forward, by collaborating with others in the group and working out differences.
- Design the program, decide how it will operate, and if possible, put that in writing so that everyone will remember the process you have all agreed to. Check the sample programs to see how other facilities have done this. Do what you can to make sure that this part of the process does not get "bogged down."
- Help decide who will be mediators, how mediators will be selected and the type of training they will receive.
- Help select the mediators.
- Help select individuals who will not serve as mediators but will receive Mediator Skills Training.
- Determine what Mediator Skills Training will be received, who will attend and who will train.

Training for the ADR Group

- Commit to attending all ADR training sessions offered and encourage union officers to do the same.
- Attend ADR awareness training and have as many officers as possible attend.

Facility Training and Program Implementation

- Think of creative ways to help advertise the ADR program at the facility and show your support of it.
- Personally, and using union resources, help advertise the ADR program at the facility. Let your members know you helped create the program, and that you believe it will benefit them.
- Have active union participation in ADR Awareness Training provided to the employees and managers (who have not already received awareness training in the ADR Group).
- Educate your union officials and employee representatives in Mediation Advocacy so they are comfortable and can effectively operate in mediation sessions. Books and audiotapes are available to help you do this.
- Be sure your officers and stewards are well-briefed on ADR and the program and make sure they understand you support the program and want them to use it whenever appropriate.
- Refer problems and disputes to the ADR program for resolution.

Program Follow-up, Evaluation and Improvement

- Help create a survey to evaluate the program.
- Have regular Group meetings to assess whether the program is working and what changes and improvements need to be made.

- Stay flexible about changes that need to be made in a program. Expect that any new program will have changes and improvements.
 - Critically look at what you can do to make the program better.
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MORE HELPFUL TIPS FOR UNION LEADERS CONSIDERING A MEDIATION PROGRAM

HERE ARE SOME TIPS AND SUGGESTIONS BASED ON OUR EXPERIENCES. REMEMBER THAT THERE IS NO "BEST" MEDIATION PROGRAM FOR ALL VA FACILITIES AND THAT EACH AND EVERY PROGRAM THAT IS IN PLACE AT THE VA HAS ITS OWN UNIQUE FEATURES. THE IMPORTANT THING IS THAT YOUR MEMBERS, EMPLOYEES AND MANAGEMENT ARE ALL SATISFIED WITH THE PROGRAM THAT YOU HAVE JOINTLY DEVELOPED AND PUT IN PLACE.

- Be as active, vocal, and positive in your support of ADR/mediation (and the ADR/mediation program you help develop) as you are able to be. Employees will look to you to set the tone on whether the program good or whether it is just some "new thing to try."
- Be as collaborative and as positive as possible in helping set up an ADR/mediation program. If you have a problem with something being proposed, make that clear. Do not simply shoot down ideas; suggest alternative ways of doing it that you think would work better.
- When developing the program, set goals and dates for achieving those goals. Check regularly on progress.
- The ADR Group should commit to getting potential users (union, managers and employees) to understand and believe in the program.
- Discuss with management, members and employees what opportunities exist in the facility for ADR/mediation usage, and at what stages in the dispute it would be most beneficial.
- Plan to commit some time to being a productive member of an ADR Group or consider jointly sponsoring an ADR Group with a top management official.

- Help obtain the proper training for the Group to develop good mediation program for the facility, including a specific plan of action (with enumerated responsibilities and dates). Encourage sure key individuals to attend the training offered. Training may be available through the Office of Regional Counsel and the Office of the Dispute Resolution Specialist.
- Give the Group strong support by kicking off the first session and voicing your union's commitment to making the mediation program work effectively. Solicit the Group's ideas on ways of and assistance in making this a reality
- Strongly urge your union officers and members to try mediation. When you are able suggest trying mediation in disputes you are involved in.
- Help target training for appropriate personnel who are responsible for offering, explaining, or potentially using mediation services, and assist in that training.
- Help the ADR Group create a plan to advertise the mediation program to all personnel.
- After a plan of action is committed to, meet with union officers and interested members at the facility to "talk up" the program, answer concerns, request their comments, criticisms and support of the new program.
- Once you have helped the Group design a program you can support, indicate your participation in its development and your support of the mediation program.
- Support training of facility employees on mediation and your mediation program.
- Plan to commit some time to working on an ADR Group and/or promoting the ADR/mediation program.
- Solicit the views and experiences of unions at other VA facilities and other Federal agencies who are using mediation to resolve disputes.
- Provide mediation advocacy training for your union officers, so that they can operate effectively when participating in mediation (as a party or report). Books and audiotapes are lent through the Office of the Dispute

Resolution Specialist.

- Contact other union officers who have help institute programs at their facilities or have special knowledge on ADR/mediation. Some possible contacts include:
- Try to keep yourself as flexible as possible to work out problems and find good solutions to the problems that pop up in every new program
- Expect that the program you help develop will have some problems and things that do not work. Act as quickly as possible to fix these things. Set up regular meetings to review program progress and to make necessary changes to the program.
- If possible, obtain some sample ADR/mediation programs and review them before meeting in the ADR Group. These can be obtained from the Office of the Dispute Resolution Specialist, (202) 273-6743.
- The best way to get buy-in for the program is to involve potential users in its design. So, make sure you get good participation in the ADR Group by the potential users, but don't let the group get too large or it won't operate well.
- Remember those individuals, services and organizations that have a role in the current dispute system usually need a role in the new program, otherwise they fear a loss of power or control and feel threatened. Individuals who feel threatened may attempt to undermine the program behind the scenes.
- Remember that there is no "right" or "cookie-cutter" way to design an ADR/Mediation Program. However, successful programs do have common features the most important being a general belief by the persons using the program that it, and the mediators it uses, are fair.

SUGGESTED ADR GROUP MEMBERS

Use common sense to make sure the group is able to operate effectively

- Associate Director or another top management official with authority to

represent the Director.

- Union President(s).
- Chief of Staff.
- Co-Chairs and Interested Members of the Partnership Council.
- EEO Program Coordinator and/or EEO counselors.
- ADR Attorney, Office of Regional Counsel.
- Chief or Assistant Chief, Human Resources Management Service.
- Chief, Nursing Service.
- Representatives of Local Unions (officials and stewards).
- Mid-level Management Representatives (a good idea for buy-in).
- Employee Representatives and Patient Representatives.