



DEPARTMENT OF THE NAVY  
NAVAL AIR SYSTEMS COMMAND  
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IN REPLY REFER TO

NAVAIRINST 5800.2  
NAIR-11.0  
13 Feb 03

NAVAIR INSTRUCTION 5800.2

From: Commander, Naval Air Systems Command

Subj: NAVAL AIR SYSTEMS COMMAND ALTERNATIVE DISPUTE  
RESOLUTION POLICY

Ref: (a) Administrative Dispute Resolution Act of 1996  
(b) 29 CFR 1614  
(c) Executive Order 12988, Civil Justice Reform, 5 Feb 96  
(d) Executive Order 12979, Agency Procurement Protests, 25 Oct 95  
(e) DoD Directive 5145.5  
(f) SECNAVINST 5800.13

Encl: (1) ADR Annual Report Form

1. Purpose. To require that all Naval Air Systems Command (NAVAIR) activities use Alternative Dispute Resolution (ADR) procedures to resolve workplace, contractual, environmental and other issues in controversy wherever practical and consistent with the provisions of references (a) through (f).

2. Cancellation. This instruction supersedes all previous NAVAIR instructions addressing the use of ADR that may have been issued by Naval Air Systems Command Headquarters (NAVAIRHQ) or any Business Units (BUs), (e.g., Naval Air Warfare Centers (NAVAIRWARCENS), Naval Air Depots (NAVAIRDEPOTs)), or the Program Executive Offices (PEO) supported by NAVAIR.

3. Applicability. This instruction applies to NAVAIR, meaning all BUs (e.g., NAVAIRHQs, NAVAIRWARCENS, NAVAIRDEPOTs) and PEOs supported by NAVAIR.

4. Background

a. References (a) through (f) set out the Federal Government's policies promoting the resolution of disputes with ADR techniques whenever appropriate.

b. NAVAIR's success is dependent on its ability to work as a team to support the fleet. Teamwork involves working with other military, civilian and contractor personnel and organizations and frequently involves building long-term business relationships. However, even with teamwork, disputes can arise. Traditionally, such disputes have escalated into formal lawsuits before administrative and/or judicial forums or the filing of Equal Employment

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Opportunity (EEO) complaints. These formal processes take time and money and distract personnel from core duties.

c. In contrast to formal judicial and/or administrative complaint and litigation processes, ADR can provide faster, less costly resolutions to disputes. The result is that time and money are saved, long-term relationships are preserved, the parties can often continue their core work with less disruption, and successful teamwork can continue.

## 5. Policy

a. ADR shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable. Every conflict and issue in controversy, unless it falls within an exception enumerated in paragraph 6b, below, shall be viewed as a potential candidate for ADR. When the use of ADR is agreed to by all parties to a dispute, the appropriate ADR procedure established by NAVAIR to resolve the dispute shall be followed. All personnel shall consider the use of ADR to resolve conflicts and issues in controversy. In addition, management at all levels shall support the use of NAVAIR ADR processes.

b. Despite its benefits, ADR is not appropriate for resolving every dispute. Following the Federal law, reference (a), NAVAIR will not use ADR when:

- (1) a definitive or authoritative resolution of the matter is needed for precedent;
- (2) the matter involves significant issues of Government policy that require procedural development, and ADR will not assist policy development;
- (3) maintaining an established policy or avoiding variations among individual decisions is of special importance;
- (4) the matter significantly affects non-parties;
- (5) a full public record of the proceeding or resolution is important; or
- (6) NAVAIR must maintain jurisdiction over the matter with the right to alter the resolution as circumstances demand.

In addition to the prohibitions listed in reference (a), NAVAIR will not use ADR if it is not in the Government's best interest to do so.

## 6. Definitions

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a. Alternative Dispute Resolution means any procedure agreed to by all parties to a controversy that uses a neutral third party individual or group to resolve issues in controversy instead of formal adjudication. ADR may include, but is not limited to, mediation, neutral evaluation and non-binding arbitration.

b. Issue in Controversy means a matter in which there is disagreement between NAVAIR and some person or entity either inside or outside of NAVAIR or between two or more persons within NAVAIR.

c. Neutral Third Party means an individual or group of individuals who, with respect to an issue in controversy, have no official, financial or personal interest with respect to the parties or issue(s) in dispute, functioning instead to aid the parties in resolving the controversy.

7. Action. In order to implement the ADR policy established in this instruction:

a. NAVAIR Counsel (AIR-11.0) shall appoint, consistent with references (e) and (f), a NAVAIR ADR Program Manager (PM).

b. Assistant Commander for Contracts (AIR-2.0) shall, as the national competency leader for contracts, within 30 days of the effective date of this instruction, designate a Deputy ADR PM for Contracts to carry out the duties specified in paragraph 7(e) of this instruction to support ADR for contractual disputes throughout NAVAIR.

c. Assistant Commander for Corporate Operations (AIR-7.0) shall, as the national competency leader for human resources, within 30 days of the effective date of this instruction, designate a Deputy ADR PM for Workplace to carry out the duties specified in paragraph 7(e) of this instruction and to support ADR for workplace disputes throughout NAVAIR.

d. NAVAIR ADR PM shall:

- (1) Report to Counsel (AIR-11.0).
- (2) Lead the establishment of NAVAIR ADR programs and processes.
- (3) Be responsible for promoting the use of ADR and coordinating overall ADR programs, processes, policies and initiatives for NAVAIR for all types of disputes, including workplace (EEO/civilian personnel), contractual, and environmental disputes.
- (4) Annually prepare a budget submission following established processes to request funds necessary for training, travel and other costs associated with carrying out the ADR policy established by this instruction.

(5) Be responsible for managing and administering funds that are allocated for ADR programs, policies, programs and initiatives, including training, travel and award funds.

(6) Be the Activity Dispute Resolution Specialist for NAVAIR as required for all Echelon 2 activities by reference (f).

(7) Be the official representative of and liaison for NAVAIR ADR programs with other organizations.

(8) Oversee the implementation of NAVAIR ADR programs and other ADR activities throughout NAVAIR to ensure compliance with NAVAIR ADR program processes and policies, including evaluating each ADR program and suspending the use of non-compliant ADR programs.

(9) Coordinate records on ADR, including statistics on ADR training attended by NAVAIR personnel, metrics required by reference (f), the NAVAIR ADR program, and other government authorities and reporting those metrics to the requesting organization via AIR-11.0 and Commander, Naval Air Systems Command (AIR-00), and as applicable, via AIR-2.0 and AIR-7.0.

(10) Request the appropriate national competency leaders designate additional Deputy ADR PMs as needed to implement and manage ADR programs for disputes concerning issues other than contractual or workplace matters.

e. Deputy ADR PMs shall:

(1) Implement and manage NAVAIR ADR programs under their purview in compliance with NAVAIR ADR processes and policies.

(2) Be responsible for promoting the day-to-day use of ADR.

(3) In collaboration with competencies and business units, prepare and submit an annual budget request to the NAVAIR ADR PM for costs associated with carrying out the ADR policy established by this instruction.

(4) Be responsible for collecting and reporting, via the appropriate chain of command, information on the ADR programs under their purview to the NAVAIR ADR PM, including but not limited to reporting the information required by reference (f) using enclosure (1) by October 15<sup>th</sup> each year.

8. Recordkeeping Requirements. All metrics required by NAVAIR ADR programs and reference (f) shall be collected by the NAVAIR Deputy ADR PMs and forwarded to the NAVAIR ADR PM for final coordination, reporting and maintenance.

9. Review. This instruction shall be reviewed annually by the NAVAIR ADR PM and Deputy ADR PMs for necessary revisions.



Pamela O'Dell  
By direction

Distribution: All NAVAIRHQ instructions can be found on <https://directives.navair.navy.mil> or locally on <https://wingspan.navair.navy.mil>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) - ANNUAL REPORT FY \_\_\_\_**

1. Activity/Code: \_\_\_\_\_ Prepared by: \_\_\_\_\_  
Phone No.: \_\_\_\_\_

2. For FY \_\_, indicate the subject matter of the ADR in the "S" column below; indicate the total number of ADRs attempted in each subject matter in the "A" column below; indicate the total disputes resolved through ADR in each subject matter in the "R" column. (Note: for the purposes of reporting on this form ADR is defined as *a procedure using a third party neutral.*)

**Subject matter codes for Column "S":**

Contracts = C; Personnel = P; Environmental = EN; Tort = T; Discrimination Complaints = DC; Labor = L.

**ADR TECHNIQUES**

Ombudsman			Mediation			Conciliation			Facilitation			Fact Finding			Mini-Trial			Non-Binding Arbitration			Binding Arbitration			Interest-Based Negotiation					
S	A	R	S	A	R	S	A	R	S	A	R	S	A	R	S	A	R	S	A	R	S	A	R	S	A	R	S	A	R

Example:

Mini-Trial		
S	A	R
P	3	3
C	4	3

3. If you encountered barriers to implementing ADR in resolving disputes at your activity, please indicate what they were by putting the number of instances in the appropriate box:

- One or both parties declined   
  Funding limitations   
  Union objections   
  Time  
 Loss of control   
  Other (please specify)

4. If ADR was used after another formal dispute resolution process had been initiated (e.g., litigation), please indicate the number of instances and in which forum the formal process was taking place:

- Federal District Court       Armed Services Board of Contract Appeals       Equal Employment Opportunity       Court of Federal Claims
- MSPB       Other (please specify)
- 

5. Indicate the total number of ADR proceedings during FY99 that:

- a. the Navy requested \_\_\_\_\_, of which the other party accepted \_\_\_\_\_;
- b. the other party requested \_\_\_\_\_, of which the Navy accepted \_\_\_\_\_;
- c. the court or tribunal ordered \_\_\_\_\_.

6. By type of case, rather than case name, indicate the dollar amount requested and settled for each matter that used ADR during FY\_\_\_ :

(Requested) \$ \_\_\_\_\_ (Settled) \$ \_\_\_\_\_.