

ATTACHMENT 1B1

ALTERNATIVE DISPUTE RESOLUTION

The Office of the General Counsel (OGC) Alternative Dispute Resolution (ADR) Services Program supports the FLRA's Agency-wide Collaboration and ADR (CADR) initiative by providing dispute resolution services to resolve parties' labor-management disputes and to assist parties in developing the type of labor-management relationship that is best suited to their own needs. The OGC will work with the parties to customize a program that assists them. The OGC furthers its mission to provide leadership in promoting stable and productive labor-management relationships in the Federal sector by providing ADR programs both before and after an unfair labor practice charge or a representation petition has been filed. The OGC's ADR program is codified in the Regulations. See section 2423.1(a) and (b), 2423.2 and 2423.7 (for ULP disputes) and section 2422.13(a) and (b) (for representation matters).

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ANSWERS

Does the OGC provide ADR services before a charge is filed?

Yes. Upon a joint request of the parties, Regional Office Agents assist parties in resolving unfair labor practice (ULP) disputes prior to the filing of a ULP charge. See section 2423.1(a) of the Regulations. It is the General Counsel's policy to encourage all parties to meet and attempt to resolve ULP disputes before a charge is filed. To that end, if requested or agreed to by both parties, a representative of the Regional Office may be available, in appropriate circumstances, to assist the parties in identifying the underlying issues and their interests and in resolving their dispute.

Specifically, what types of services does the OGC provide?

Under section 2423.(b), the parties may request that an OGC Agent provide any of the following services:

- Facilitation – Assisting the parties in improving their labor management relationship
- Intervention – Using an interest-based technique, intervening when parties are experiencing or expect significant ULP disputes
- Training – Training union and management representatives on their rights and responsibilities under the Statute, and how to avoid litigation over those rights

- Education – Working with the parties to recognize the benefits of, and establish processes for, avoiding disputes and resolving disputes by consensual rather than adversarial means

The above services may be requested at any time, i.e., they do not have to be related to a charge. In addition, after the initiation of an investigation, a Region may suggest to parties, as appropriate, that they may benefit from the ADR services.

In lieu of an investigation, does the Region ever use an alternative approach to processing a ULP charge?

Yes. The OGC provides an alternative case processing procedure that is codified at section 2423.7 of the Regulations. Among other things, the features of this ADR technique are as follows:

- The procedure is voluntary
- Interest-based problem solving technique is used
- No evidence is taken – the Agent facilitates a solution rather than conducts an investigation
- No evidence becomes part of the case file
- If the parties are unable to resolve the dispute, the case is investigated in the normal manner
- There is no communication between the Agent who was involved in the alternative case processing procedure and the Agent assigned to do the investigation on the merits, should that be necessary

Is the Regional Office available to help parties with representation issues that arise before a petition has been filed?

Yes. Just like in the ULP arena, upon the joint request of the parties, Regions are available to assist in resolving and narrowing representation issues prior to the filing of a representation petition, see section 2422.13(a) of the Regulations, and after a petition has been filed, see section 2422.13(b).

Generally, what are the benefits of the ADR services that the OGC provides?

- Ensure understanding of, and compliance with, the Statute
- Assist the parties in developing the type of labor-management relationship that best suits them
- Enable Federal agencies and their employees to deliver the highest quality services
- Enhance the quality of work life and the well-being of employees and managers

What types of ADR programs not directly related to a pending ULP case might you consider requesting that the OGC provide?

Upon joint request of the parties, the OGC is available to assist the parties to evaluate the success of their current labor-management relationship and develop the type of labor-management relationship that best meets their interests. The

OGC will work with the parties to customize a program, that meets their needs. This could include statutory training as well as presentation of information about the types of labor-management relationships options and their characteristics, facilitating a discussion of the parties' respective interests, and, if both parties agree, assisting the parties in developing options and selecting a course of action to achieve their interests.

Specifically, what are some examples of ADR services that the OGC has provided?

- Provided advanced statutory training to union and agency representatives at both the national and local levels. The training gave the participants an opportunity to discuss the law and strategies to interpret and apply the law in a manner that fosters productive labor-management relationships.
- Facilitated the resolution of multiple ULP and representation issues arising from the announced closing of a facility. The parties agreed to develop options for the placement of employees. The ULP charges were withdrawn and the parties' relationship improved.
- Provided mediation services to end protracted contract negotiations for a nationwide bargaining unit of approximately 45,000 employees. The parties had been negotiating a successor agreement to replace an expired contract. The "super mediation" session, which was the culmination of six years of contract negotiations, ULP charges and Federal Service Impasses Panel proceedings, resulted in the parties reaching agreement on all outstanding issues.
- Helped parties affected by government-wide reorganizations by facilitating agreements that minimized the need for litigation concerning the reorganization.
- Provided training and facilitation services to assist parties in addressing disputes involving representation issues, such as successorship and accretion created by reorganizations, resulting in a narrowing of the issues and an agreement on the number of petitions to be filed to resolve the representation matters.
- Conducted pre-representation petition filing meeting to explore the effects of a scheduled reorganization affecting several existing bargaining units and assisted the parties in agreeing on the manner in which representational rights would be effectuated during the processing of the representation petitions.

Does the OGC provide ADR services that are not directly related to a pending ULP case to requesters in all cases?

No. The OGC concentrates its limited resources where they have the potential to achieve the greatest results. Based on this objective, Regional Directors consider specific factors in determining whether ADR programs and services are undertaken. Not all of the following factors are relevant to each situation:

- Commitment of the parties to improve their labor-management relationship
- Availability of OGC employees to meet the parties' needs
- Balancing of resource needs among OGC programs
- Organizational level of the Agency and Union
- Character of labor-management relationships
- The OGC's commitment to, and the parties' need for, continued assistance
- Nature and extent of prior assistance
- Acceptability of OGC assistance by the Agency and Union
- OGC involvement furthers dispute resolution

See ULPCHM, Part 1, Chapter B for a more in-depth discussion of each of the criteria listed above.

Can a union force an agency, or an agency force a union, to participate in a dispute resolution program offered by the OGC?

No. These services are only offered upon the parties' joint request. However, as part of processing a ULP charge, the OGC may suggest to the parties, as appropriate, that they may benefit from these ADR services.

How do you initiate a request for an ADR service that is unrelated to a pending ULP charge?

- ADR services may be initiated by the OGC or by a request or agreement of the parties. Depending upon the type of ADR service requested, it may be appropriate to require that the parties jointly agree that the Region

provide such services. In any event, the Region provides such services consistent with OGC criteria.

- For example, parties may jointly request skills training or assistance in enhancing their labor-management relationship, or the OGC may suggest to the parties that they may benefit from such training or assistance. Irrespective of how these ADR services are initiated, the OGC creates innovative programs that are responsive to the varying needs of the parties.

What is the cost of providing an ADR service?

Costs may include reimbursement for travel expenses and expenses for training materials

Who should you contact about requesting the delivery of an ADR service?

As assigned by each Regional Director, Regional Dispute Resolution Specialists (RDRSs), along with the Regional Office Agents, deliver OGC ADR services within their respective Regions. The RDRS coordinates the day-to-day delivery of such services within their Regional Office and provides coaching and mentoring to Regional Office Agents on the OGC ADR Program. The following chart lists each of the seven RDRSs. Visit the Regional Office page for the address of each of the Regions.

<u>REGION</u>	<u>RDRS</u>	<u>TEL. #</u>	<u>E-MAIL</u>
Atlanta	Gail Hitchcock	404-331-5212, x17	ghitchcock@flra.gov
Boston	Gerard Greene	617-424-5731, x12	ggreene@flra.gov
Chicago	Phil Roberts	312-886-3465, x20	proberts@flra.gov
Dallas	Bill Kirsner	214-767-6266, x16	wkirsner@flra.gov
Denver	Steve Thoren	303-844-5226, x18	sthoren@flra.gov
San Francisco	Lisa Vandenberg	415-356-5002, x18	lvandenberg@flra.gov
Washington	Bill Fleischmann	202-482-6702, x19	bfleischmann@flra.gov

Who at OGC's National Office coordinates the OGC-wide ADR activities?

The Assistant General Counsel for Legal Services, Steve Svartz, is responsible for coordinating the day-to-day activities of the OGC ADR Program delivered by the Regional Offices. He performs support activities to assist the Regions and the RDRSs in delivering effective ADR services and acts as a liaison to other FLRA components.

What was the OGC's experience regarding the delivery of ADR services for FY 2000?

For FY 2000, the OGC delivered 1470 ADR services to labor and management parties. The OGC has delivered over 260 facilitation, intervention, training, and education ADR Programs. Over 9600 employees, union representatives, managers and supervisors attended ADR programs sponsored by the OGC. ADR was utilized to resolve over 1140 charges without the need for litigation.