



Virginia Department of Corrections

Legal

Operating Procedure 040.2

Alternative Dispute Resolution

Authority:

Directive 040, *Litigation and Dispute Resolution*

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REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

The content owner reviewed this operating procedure in June 2022 and necessary changes are being drafted.

The content owner reviewed this operating procedure in May 2023 and determined that no changes are needed.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

Table of Contents

DEFINITIONS	3
PURPOSE	4
PROCEDURE.....	4
I. Virginia Administrative Dispute Resolution Act	4
II. Administrative Dispute Resolution within DOC.....	4
REFERENCES.....	5
ATTACHMENTS	5
FORM CITATIONS	5

DEFINITIONS (updated 6/1/23)

Dispute Resolution Proceeding - Any structured process in which a neutral party assists the parties to a dispute in reaching a voluntary settlement by means of dispute resolution processes such as mediation, conciliation, facilitation, partnering, fact finding, neutral evaluation, use of ombudsmen, or any other proceeding leading to a voluntary settlement. For the purposes of this procedure, the term "dispute resolution proceeding" does not include arbitration.

Mediation - A process in which a neutral party facilitates communication between the parties to a dispute, without deciding the issues or imposing a solution on the parties, and enables them to understand and resolve their dispute.

PURPOSE

This operating procedure provides for alternative dispute resolution processes as means by which the Department of Corrections (DOC) and the affected party or parties may attempt to achieve settlement of matters in controversy without animosity and without incurring the costs associated with litigation.

PROCEDURE

- I. Virginia Administrative Dispute Resolution Act
 - A. The *Virginia Administrative Dispute Resolution Act* (COV §2.2-4115 through 4119) authorizes and encourages the use of techniques for the resolution of disputes, which are commonly referred to as *Alternative Dispute Resolution* (ADR).
 1. Some of these techniques have long been in use within the DOC.
 2. Litigation may be necessary at times, but is costly both in terms of money and staff time.
 3. The use of alternative, less adversarial processes to resolve or prevent disputes and to avoid litigation is therefore encouraged.
 - B. The DOC is committed to utilizing alternative dispute resolution processes, as appropriate, as means by which the DOC and the affected party or parties may attempt to achieve settlement of matters in controversy without animosity and without incurring the costs associated with litigation.
- II. Administrative Dispute Resolution within DOC
 - A. The Director of the DOC has designated the Director of Administrative Compliance as the agency Dispute Resolution Coordinator (DRC), and has authorized this individual and others involved in ADR to attend relevant training.
 - B. The DRC will ensure that written procedures are in place to address the use of dispute resolution proceedings within the DOC and for DOC programs and operations.
 - C. The Dispute Resolution Process will utilize current DOC procedures and practices for handling employee grievances, construction related and non-construction procurement protests and appeals, inmate grievances, inmate disciplinary appeals, and the like.
 - D. The Unit Heads of the following areas will have responsibility for developing and maintaining ADR policies, procedures, and practices appropriate to their units:
 1. Human Resources - Employee Grievances
 2. Infrastructure and Environmental Management Unit - Construction Related Procurement & Contract Disputes
 3. Procurement & Risk Management - Procurement (other than construction related)
 4. Administrative Compliance Unit - Inmate Grievances and Inmate Disciplinary Process and Appeals.
 - E. The agency DRC and the appropriate Unit Heads will review policies, procedures, and regulations at least annually to determine necessary amendments.
 - F. The Unit Heads will ensure that training is provided for agency personnel involved in implementing any such written procedures and will authorize and encourage the use of collaborative practices and dispute resolution proceedings.
 - G. Requests for ADR in other instances will be referred to the DRC and handled on an as needed basis.

Arbitration must not be used under any circumstances.

REFERENCES

COV §2.2-4115 through 4119, *Virginia Administrative Dispute Resolution Act*.

ATTACHMENTS

None

FORM CITATIONS

None

