



Operating Procedure

Effective Date June 1, 2018	Number 040.2
Amended	Operating Level Department
Supersedes Operating Procedure 040.2 (6/1/15)	
Authority COV §2.2-4115 through 2.2-4119; §53.1-10, §53.1-25	
ACA/PREA Standards None	
Office of Primary Responsibility Director of Administrative Compliance	

Subject
ALTERNATIVE DISPUTE RESOLUTION

Incarcerated Offender Access Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
	Attachments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

I. PURPOSE

This operating procedure provides for alternative dispute resolution processes as means by which the Department of Corrections 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. COMPLIANCE

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

III. DEFINITIONS

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.

IV. PROCEDURE

A. Virginia Administrative Dispute Resolution Act

1. 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).
 - a. Some of these techniques have long been in use within the Department of Corrections.
 - b. Litigation may be necessary at times, but is costly both in terms of money and staff time.
 - c. The use of alternative, less adversarial processes to resolve or prevent disputes and to avoid litigation is therefore encouraged.
2. 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.

B. Administrative Dispute Resolution within DOC

1. The Director of the Department of Corrections 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.
2. 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.

3. The Dispute Resolution Process will utilize current DOC procedures and practices for handling employee grievances, construction-related and non-construction procurement protests and appeals, offender grievances, offender disciplinary appeals, and the like.
4. The Unit Heads of following areas shall have responsibility for developing and maintaining ADR policies, procedures, and practices appropriate to their units:
 - Human Resources ----- Employee Grievances
 - Infrastructure and Environmental Management Unit
----- Construction Related Procurement & Contract Disputes
 - Procurement & Risk Management ----- Procurement (other than construction related)
 - Ombudsman Services Unit----- Offender Grievances
 - Offender Discipline Unit ----- Offender Disciplinary Process & Appeals
5. The agency DRC and the appropriate Unit Heads shall review policies, procedures, and regulations at least annually to determine necessary amendments.
6. 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.
7. Requests for ADR in other instances shall be referred to the DRC and handled on an as needed basis.

C. Arbitration shall not be used under any circumstances.

V. REFERENCES

None

VI. FORM CITATIONS

None

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

The office of primary responsibility reviewed this operating procedure in June 2019 and necessary changes have been made.

Signature Copy on File

4/18/18

Harold W. Clarke, Director

Date