DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON, TN 38055-0000

BUPERSINST 5800.1A CH-1
BUPERS-05
2 Jan 2019

BUPERSINST 5800.1A CHANGE TRANSMITTAL 1

From: Chief of Naval Personnel

Subj: ALTERNATIVE DISPUTE RESOLUTION PROGRAM FOR CIVILIAN EMPLOYEES

Encl: (1) Revised page 3

1. Purpose. To transmit new page 3 of the basic instruction. This change updates the responsibilities of the head of the organization (e.g., department head, officer in charge, or commanding officer) to ensure alternative dispute resolution programs are used whenever feasible.

2. Action. Remove page 3 of the basic instruction and replace with enclosure (1) of this change transmittal.

3. Records Management

a. Records created as a result of this change transmittal, regardless of format or media, must be maintained and dispositioned for the standard subject identification codes (SSIC) 1000 through 13000 series per the records disposition schedules located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx.

b. For questions concerning the management of records related to this instruction [notice, change transmittal] or the records disposition schedules, please contact your local records manager or the DON/AA DRMD program office.

J. W. HUGHES
Deputy Chief of Naval Personnel

Releasability and distribution:
This instruction is cleared for public release and is available electronically only via BUPERS Web site, http://www.public.navy.mil/bupers-npc/reference/ instructions/ BUPERSInstructions/ Pages/default.aspx

DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON, TN 38055-0000

BUPERSINST 5800.1A
BUPERS-05
19 Sep 2017

BUPERS INSTRUCTION 5800.1A

From: Chief of Naval Personnel

Subj: ALTERNATIVE DISPUTE RESOLUTION PROGRAM FOR CIVILIAN EMPLOYEES

Ref: (a) SECNAVINST 5800.13A
(b) 29 CFR 1614 (Federal Sector Equal Employment Opportunity)
(c) DoD Instruction 5145.05 of 7 May 2016
(d) 5 U.S.C Chapter 71 (Federal Service Labor-Management Relations Status)
(e) E.O. 12871 (Labor-Management Partnership)
(f) Public Law 104-320 (ADR Act of 1996)

Encl: (1) Profiles of Potential ADR Programs

1. Purpose

a. To establish policy, provide guidance, and assign responsibilities for the use of Alternative Dispute Resolution Program (ADR) within Bureau of Navy Personnel (BUPERS) claimancy under references (a) through (f) and to comply with the mandate of reference (b) that an ADR program be established and made available to the parties in an equal opportunity (EO) dispute. This instruction does not change entitlements for employees to file complaints or grievances or to use the chain of command to resolve issues; rather, it establishes additional tools to resolve disagreements.

b. Major changes include outlining the responsibilities of BUPERS, Director, Total Force Human Resources and Manpower (BUPERS-05) and revising responsibilities for heads of organizational units. This instruction is a complete revision and should be read in its entirety.

2. Cancellation. BUPERSINST 5800.1.

3. Scope and Applicability. Per references (a) through (c), this instruction applies to BUPERS claimant activities.

4. Discussion. BUPERS recognizes that in appropriate circumstances there may be more effective methods to resolve issues in controversy than through reliance upon more adversarial processes. Traditional dispute resolution processes often impose a decision handed down by a

third party where neither party is satisfied; the process is protracted and expensive. In contrast, through stakeholders' participation and buy-in, the voluntary use of alternative means of dispute resolution often can provide faster, less expensive, and more effective resolution of disputes that arise with employees, claimants, and others with whom BUPERS does business.

5. Policy. It is BUPERS policy that ADR be used whenever feasible and appropriate in a good faith effort to achieve consensual resolution of issues in controversy. ADR programs will:

a. Be provided for all activities within the BUPERS claimancy.

b. Focus on early resolution of disagreements through the fastest and least expensive method possible.

c. Be used in conjunction with formal administrative processes to provide a variety of tools to resolve disagreements. These alternatives may be incorporated into existing processes such as equal employment opportunity (EEO) complaints of discrimination and administrative grievances, as long as they are presented as options, not mandates. Use of ADR for bargaining unit employees is subject to local negotiation per references (c) and (d). The provisions of this instruction apply to all managers, supervisors, and employees. ADR will not be used to resolve cases of sexual assault, other criminal activity, or any action prohibited by law or regulation.

6. Definition. The ADR Program is a voluntary procedure that parties agree to use, in lieu of or in conjunction with a formal administrative process, to resolve disagreements in the work environment.

7. Responsibilities

a. BUPERS-05 must:

(1) Appoint a BUPERS ADR program manager.

(2) Promote and coordinate the use of ADR within the BUPERS claimancy.

(3) Establish ADR training requirements for the BUPERS claimancy.

(4) Provide training for managers, supervisors, and employees, as needed. Training will be conducted by instructors who are certified in the specific ADR process(es) utilized by the claimancy.

(5) Periodically (no less than annually) review existing approaches to dispute resolution and, where feasible, foster use of ADR techniques by identifying and removing unnecessary barriers to the use of ADR.

b. The head of the organizational unit (e.g., department head, officer in charge, commanding officer) must:

(1) Contact the BUPERS ADR Program Manager and the Labor and Employee Relations Office (BUPERS-0513) for guidance.

(2) Ensure the use of ADR program(s) whenever feasible.

(3) Ensure ADR is made available for EEO matters per reference (b).

(4) Comply with notice and negotiation requirements of reference (d) and any partnership agreements under reference (e).

(5) Ensure full protection from reprisal for any employee who seeks resolution via ADR.

8. Records Management

a. Records created as a result of this instruction [notice, change transmittal], regardless of format or media, must be maintained and dispositioned for the standard subject identification codes (SSIC) 1000 through 13000 series per the records disposition schedules located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx.

b. For questions concerning the management of records related to this instruction [notice, change transmittal] or the records disposition schedules, please contact your local records manager or the DON/AA DRMD program office.

9. Review and Effective Date. Per OPNAVINST 5215.17A, BUPERS-05 will review this instruction annually on the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, Department of Defense, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.

10. Information Management. BUPERS-05 will report the information required by reference (a) to the Department of the Navy ADR Program Manager by the end of November each year.

//S//
R. A. BROWN
Deputy Chief of Naval Personnel

Releasability and distribution:
This instruction is cleared for public release and is available electronically only via BUPERS Web site, http://www.public.navy.mil/bupers-npc/reference/Pages/default.aspx

PROFILES OF POTENTIAL ADR PROGRAMS

The following are profiles of potential ADR programs. Not all of the programs are appropriate for use.

1. MEDIATION. A third party, often an impartial professional or trained mediator from a governmental mediation and or conciliation agency, endeavors to assist the parties in narrowing their differences and reaching a settlement. Mediation attempts to address the root cause of the problem, vice just the immediate issue at hand. Government mediators are often available for per diem and travel costs. Contract or private consultants are, as a rule, considerably more costly.

2. ROUNDTABLE. A dispute resolution specialist chairs a roundtable discussion between the parties. Typically, round-tables include the department head, responsible management official(s), servicing labor and employee relations specialist, and, depending upon the specific case, other participants such as witnesses, supervisor(s), discrimination complaints manager (if an EEO issue), the person raising the issue, and his or her representative.

3. PEER REVIEW. A team of the employee's peers and impartial agency officials review the issues in contention and recommend a resolution.

4. OMBUDSMAN. A designated neutral employee or board is appointed as an ombudsman and provides the employee a chance to air employment-related problems. The ombudsman serves as a catalyst to bring the employee and supervisor together for mutual understanding and benefit, establish or improve communications, and attempt to bring about resolution of the complaint.

5. FACT-FINDING. A process by which a fact-finder with technical expertise related to the subject matter of the dispute evaluates the matter and prepares a report establishing the facts of the case. The report is then used as the basis for settlement negotiations.

6. EARLY NEUTRAL EVALUATION. This process involves appointing a trier of fact, such as a judge or attorney, to review the facts of the case and render a decision.