

Frequently Asked Questions
DHS OIG Whistleblower Protection ADR Program

What is Alternative Dispute Resolution (ADR)?

ADR is an informal, voluntary process in which parties may reach a resolution by using mediation or facilitated settlement negotiations prior to or during the investigative process.

Are there different types of ADR?

Yes! The OIG ADR Program utilizes different ADR processes based on the nature of conflict and the desires of the parties. In some cases, mediation may be appropriate so that both parties are able to communicate directly with each other with the assistance of the OIG mediator. Other cases may be more suitable for facilitated settlement negotiations, where the OIG ADR Official acts as an intermediary between the parties and communicates the needs and opinions of each party to the opposing party.

What is mediation?

Mediation is a common ADR technique. Mediation is an informal and flexible process in which a neutral third party – the ADR Official - assists the opposing parties in reaching a voluntary, negotiated resolution of the complaint. Mediation is different from other forms of dispute resolution in that the parties participate voluntarily. The mediator has no decision-making authority. The decision-making power rests in the hands of the parties.

What are the benefits of ADR?

ADR is an informal process that is an efficient method of resolving disputes. It allows parties to customize both the process and resolution for the complaint, instead of an outside decision maker. ADR may also lead to improved relations between the parties. There is no cost to either the employee or the agency for OIG's ADR program.

What is the DHS OIG Whistleblower Protection ADR process?

The ADR process is facilitated by a DHS OIG ADR Official (a neutral decision maker), who assists the parties in resolving the complaint. If both parties in a complaint (the complainant and employer) agree to participate in ADR, the ADR Official works with the parties to facilitate negotiations or a mediation. Parties may also request to participate in the ADR process during any stage of the investigative process.

During the ADR process, both parties can explain their interests and concerns and explore possible solutions. If the parties reach a mutually acceptable resolution, the ADR Official may assist the parties in drafting a settlement agreement. A signed settlement agreement results in the closure of the complaint.

DHS OIG provides all dispute resolution services in accordance with the Administrative Dispute Resolution Act of 1996, 5 USC §§ 571-84, including its confidentiality provision.

What is the role of the DHS OIG ADR Official?

As an independent, neutral intermediary, the ADR Official assists and guides the parties towards their own resolution. The ADR Official does not have any decision-making power and cannot impose an agreement on the parties.

How do we get started?

Once OIG has offered mediation and both parties have agreed, all participants will sign OIG's Confidentiality Agreement and Agreement to Participate in ADR. These Agreements detail the terms of the mediation and, importantly, commit all parties to keep dispute resolution communications confidential.

What is required of participants engaging in the DHS OIG ADR process?

Participants are required to act in good faith and actively engage in the process by giving serious consideration to all suggestions made towards reaching a resolution.

Is the ADR process confidential?

Yes, the ADR process is confidential and separate from the investigative process. Once parties agree to participate in ADR, all oral or written communications (parties are required to destroy any notes once the process has concluded) made during the ADR process are confidential except for the signed Agreement to Participate, Confidentiality Agreement, and any resulting settlement agreement.

What happens after the ADR process concludes?

If the parties reach a resolution, they will sign a settlement agreement thereby closing the complaint. If a settlement is not reached, the complaint will be referred to the Whistleblower Protection Unit for further review. Anything discussed during the ADR process session remains confidential within the ADR Unit, and the OIG ADR Official has no further involvement with the case. However, the parties have the option to resume ADR at any point during the investigative process.