

Legal Watch



General Counsel

Alternative Dispute Resolution

What is Alternative Dispute Resolution?

Alternative Dispute Resolution (ADR) is a method in which two parties who are disagreeing can reach a mutually agreeable resolution without going into litigation (i.e., going to court). There are three main methods of ADR: negotiation, mediation and arbitration.

Negotiation

Negotiation is the simplest form of ADR, and is usually the first step in resolving any conflict. With negotiation, the two parties sit down together and discuss the issue(s) in dispute, and try to come up with a solution that both see as beneficial to them. There is no third party involved in negotiation.

Mediation

Mediation is the next step in the ADR process. Like negotiation, the two parties sit down to discuss the issue(s) at hand; however, in mediation there is a third neutral party who acts as a neutral facilitator. Mediation is usually totally voluntary, although it can be required by contract or by policy. A mediator is there to listen and, in many mediations, does not give advice or recommendations. When the situation needs to be resolved quickly, efficiently, and with little cost, mediation is used. Studies have shown that when the parties voluntarily come to a mutual agreement they are more likely to follow through and keep their agreement.

Arbitration

Unlike mediation, an arbitrator can usually make a binding decision, like a judge. An arbitrator can either be brought in by the

parties pursuant to an agreement, or can be assigned by an organization like the American Arbitration Association. Many commercial type contracts now days mandate arbitration in place of being able to go to court. Arbitration is normally quicker and less costly than litigation, although not always. NDSU seldom agrees to binding arbitration for a number of policy and practical reasons.

Mediation at NDSU

At NDSU, we have compiled a list of trained mediators that have experience in civil and employment mediation. These mediators are neutrals, that is, they have no stake in the situation and can maintain objectivity. This ensures that both parties receive equal time to put forth their side of the disagreement and to be heard.

If you feel that you have a work situation which cannot be resolved through negotiation, or if negotiation has failed, mediation might be the next step to take. Call the Office of the General Counsel at 231-8741, and we will forward you a listing of trained mediators from which the two parties can choose. A mediation conference room has been set up in Old Main; however, where the mediation takes place is entirely up to the parties involved.

