

CONFLICT RESOLUTION/ADR

EPA's Alternative Dispute Resolution (ADR) program provides resources Community Engagement Coordinators (CECs) can use in special situations to facilitate decision making and to mediate more serious conflicts. ADR refers to a process that uses an objective third party or neutral party to assist in resolving disputes. ADR is primarily a component of EPA's enforcement program but is an option for CECs under certain circumstances. ADR can help CECs promote meaningful community involvement by fostering collaborative decision-making processes and mediating conflicts as they arise. CECs can consult with Regional ADR Specialists to discuss options for using neutral facilitation, mediation, or other dispute resolution tools at hazardous waste sites.

Required Activity?

No. Although the 1996 Administrative Dispute Resolution Act ([5 U.S.C. 571-583](#)) directs agencies to establish alternative dispute resolution programs, CECs are not required to use ADR.

EPA's public participation guidelines for RCRA use of Alternative Dispute Resolution are discussed in Chapter 2 of the [2016 Edition of the RCRA Public Participation Manual](#).

Making It Work

When to Use

Mediation can be useful when disagreements seem unresolvable. Mediation is a process in which a third party, with no decision-making authority, helps disputing parties reach a negotiated settlement. An expert mediator or panel of mediators helps disputing parties identify and discuss issues of mutual concern, explore solutions, and develop mutually acceptable settlements. The disputing parties are responsible for devising their own solutions to the conflict with the help of a structured process established by the mediator.

Neutral facilitation is appropriate:

- At contentious sites with numerous stakeholders;
- Where there are environmental justice interests;
- In high-conflict situations;
- At sites with many competing interests;
- Where there is mistrust among participants;
- In situations in which leadership is not clear;
- Where participants mistrust the government; and
- When EPA has or is perceived to have a vested interest in the results of the process.

ADR is most useful when:

- Time is a major factor;
- Multiple or complex issues need to be resolved;
- Failure to agree does not clearly benefit one party;

- Tensions, emotions, or transaction costs are running high;
- Communications between the parties have broken down; and
- Parties want or need to maintain some ongoing relationship.

ADR is least useful when negotiations will substantively affect parties who are not present and cannot be represented.

How to Use

CECs can consult with a Regional Alternative Dispute Resolution (ADR) Specialist for more information on the use of facilitation or other ADR techniques, and for assistance obtaining a neutral or third-party. When selecting a third-party facilitator, it is vital to check references and secure an individual with the appropriate level of experience.

A third-party neutral facilitator:

- Identifies stakeholders initially and throughout the process;
- Maintains a level playing field for all participants;
- Helps parties identify the issues that need to be discussed;
- Helps clarify roles and purposes of the group;
- Drafts procedural guidelines for group process;
- Builds trust with parties through confidential pre-meeting and between-meeting interviews;
- Breaks through impasses that develop because of technical complexity, political visibility, poor communication, personalities, or past history;
- Summarizes and documents agreements to date;
- Maintains the momentum of the process;
- Coordinates and builds linkages among participants; and
- Ensures that all issues are addressed.