

## **Rule 16.4 Alternative Dispute Resolution**

**(a) Purpose.** The Court adopts Local Rules 16.4 to 16.10 to make available to the Court and the parties a broad program of court-annexed dispute resolution processes designed to provide quicker, less expensive, and generally more satisfying alternatives to continuing litigation.

It is not contemplated that all of these processes--early neutral evaluation, mediation, arbitration, summary jury trial, and summary bench trial--will be suitable for every case. Rather, the Judges of the Court believe that the careful selection of processes to fit the cases will result in the efficient preparation and resolution of those cases, to the benefit of the parties, their counsel, and the Court.

### **(b) Definitions.**

(1) "Arbitration" is an adjudicative process by which a neutral person or persons (the arbitrator(s)) decide the rights and obligations of parties. The arbitration process described in Local Rule 16.7 is court-annexed, in that it is arranged and administered by the Court. It is also consensual, in that the parties consent to participate, and non-binding.

(2) The "assigned Judge" is the Judge to whom the case is assigned. If the Judge has referred the matter to a Magistrate Judge, the Magistrate Judge is the assigned Judge under Local Rules 16.4 to 16.10 with respect to actions or decisions which are to be made by the assigned Judge.

(3) "Early Neutral Evaluation" ("E.N.E.") is a pre-trial process involving a neutral evaluator who meets with the parties early in the course of the litigation to help them focus on the issues, organize discovery, work expeditiously to prepare the case for trial, and, if possible, settle all or part of the case. The neutral evaluator provides the parties with an evaluation of the legal and factual issues, to the extent possible, at that early stage of the case.

(4) "Mediation" is a non-binding settlement process involving a neutral mediator who helps the parties to overcome obstacles to effective negotiation. The mediation process described in Local Rule 16.6 is court-annexed.

(5) "Summary Jury Trial" is a court-annexed, non-binding process in which the parties briefly present their case to a jury with a Judicial Officer presiding and then use the decision of the jury and information about the jurors' reaction to the legal and factual arguments as an aid to settlement negotiations.

(6) "Summary Bench Trial" is a court-annexed pretrial procedure intended to facilitate settlement consisting of a summarized presentation of a case to a Judicial Officer whose decision and subsequent factual and legal analysis serves as an aid to settlement negotiations.

**(c) The ADR Administrator.** The "ADR Administrator" is the person appointed by the Court with full authority and responsibility to direct the programs described in this Section. The ADR Administrator shall be a person with training and experience in the administration of ADR Programs. The ADR Administrator shall:

(1) Administer the selection, training, and use of the Federal Court Panel;

(2) Collect and maintain biographical data with respect to members of the Federal Court Panel to permit assignments commensurate with the experience, training, and expertise of the panelists and make the list of panelists and the biographical data available to parties and counsel;

(3) Prepare applications for funding of the ADR Program by the United States government and other parties;

(4) Prepare reports required by the United States government or other parties with respect to the use of funds in the operation and evaluation of the program;

(5) Develop and maintain such forms, records, docket control, and data as may be necessary to administer and evaluate the program;

(6) Periodically evaluate, or arrange for outside evaluation of, the ADR Program and report on that evaluation to the Court, making recommendations for changes in these Rules, if needed; and

(7) Develop, and make available upon request, lists of private or extra-judicial ADR providers.

Decisions of the ADR Administrator, acting within the authority conferred in these Rules, shall be orders of the Court for purposes of enforcement and sanctions.

**(d) Federal Court Panel.** There is hereby authorized the establishment of a Federal Court Panel consisting of persons who, by experience, training, and character, are qualified to act as evaluators, mediators, arbitrators, or other neutrals in one or more of the processes provided for in these Rules.

(1) Appointment to the Panel. The Federal Court Panel shall consist of persons nominated by the Court's Advisory Group and confirmed by the Judges of the Court.

(2) Qualifications and Training.

(A) Panelists shall be lawyers who have been admitted to the practice of law for at least five (5) years and are currently either members of the bar of the United States District Court for the Northern District of Ohio or members of the faculty of an accredited Ohio law school. The Court may waive these requirements to appoint other qualified persons with special expertise in particular substantive fields or experience in dispute resolution processes.

(B) All persons selected as panelists shall:

(i) Undergo such dispute resolution training as the Court may prescribe;

(ii) Take the oath set forth in 28 U.S.C. § 453; and

(iii) Agree to follow the provisions of these Rules.

Each person shall be appointed as a Federal Court Panelist for a period of three (3) years. Appointment may be renewed upon a demonstration of continued qualification.

(3) Compensation of Panelists.

(A) Mediators and evaluators shall receive no compensation for the first four and one half (4 1/2) hours of services which is to begin when the Mediator or Evaluator meets with the parties for the initial mediation conference or initial evaluation session. Preparation time by the Mediator or Evaluator for the respective ADR proceeding shall not be included in the first four and one half (4 1/2) hours of service.

Once the initial four and one half (4 1/2) hours of service have been provided by the Mediator or Evaluator, the parties shall be equally responsible for the Panelist's compensation at the rate of \$150 per hour. A compensation schedule for arbitrators shall

be published by the Court.

(B) No panelist may be assigned in one calendar year to more than one case which falls within the Complex Case Track (See Local Rule 16.2 and 16.3(c)), nor to a total of more than five (5) cases, without the consent of the panelist.

**(4) Immunity. All persons serving as Court appointed neutrals in the court-annexed ADR program are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.**

(e) **Referral to ADR.** Parties are encouraged to use the provisions of these Rules regarding ADR, and the Judicial Officer shall direct the parties to an appropriate ADR program when, in the judgment of the Judicial Officer, such referral is warranted. In the event it is a case referred to a Magistrate Judge for case management only, any reference to ADR may be made only with the approval of the District Judge to whom the case was assigned. ADR hearing dates shall not be modified without leave of Court.