

## **Rule 16.4 Alternative Dispute Resolution**

(a) **Purpose.** The Court adopts Local Rules 16.4 to 16.7 to make available to the Court and the parties a program of court-annexed dispute resolution processes designed to provide alternatives to traditional litigation.

It is not contemplated that these processes 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) 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 16.7 with respect to actions or decisions which are to be made by the assigned Judge.

(2) "Early Neutral Evaluation" ("E.N.E.") is a pre-trial process involving a neutral 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. The evaluation process described in Local Rule 16.5 is court-annexed.

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

(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 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) Panelists shall not charge for the first six (6) hours of service provided in court-annexed alternative dispute resolution procedures. Preparation time shall be included in this commitment.

(B) If more than six (6) hours of service are required, the panelist may request compensation for hours in excess of six (6), should they wish to do so. The maximum hourly rate that may be charged by the panelist for court-annexed services shall be \$275.00 per hour. Unless otherwise agreed, the panelist's charge shall be split equally between the plaintiffs and the defendants.

(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 ADR for the resolution of their disputes, and the Judicial Officer shall guide the parties to an appropriate ADR process when, in the judgment of the Judicial Officer, such referral is warranted, and shall make the parties aware that a neutral may be selected through this Court's ADR Program. 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. Without leave of Court, neither the parties nor the neutral may modify the time allowed for completing an ADR process.

(f) **Private ADR.** If all parties advise the Court that they would prefer to use a private ADR process, the Court may permit them to do so at the expense of the parties subject to:

(1) The submission to the Court of an agreement, executed by the parties, providing for the conduct of the ADR process including, without limitation, confirming their agreement to use and pay for a private ADR process and explaining how a neutral will be selected;

(2) The filing with the Court, within ten (10) days of the completion of the ADR process, of a written report signed by the neutral or by the parties if no neutral was used.

Last revised 12/1/2018. *See* Historical Notes for full revision history.