



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

July 23, 2018

INSPECTOR GENERAL INSTRUCTION 5145.05

**WHISTLEBLOWER REPRISAL
ALTERNATIVE DISPUTE RESOLUTION PROGRAM**

FOREWORD

This instruction establishes policy, responsibilities, and an organizational and functional overview of the Alternative Dispute Resolution Program in the Whistleblower Reprisal Investigations Directorate for the DoD Office of Inspector General.

This instruction will expire 10 years from its issuance date.

The office of primary responsibility for this instruction is Administrative Investigations. This instruction is effective immediately.

FOR THE INSPECTOR GENERAL:

A handwritten signature in black ink, appearing to read "Steven A. Stebbins", is positioned above the printed name and title.

Steven A. Stebbins
Chief of Staff

2 Appendices

A. Purpose. This instruction establishes policy and responsibilities for the Alternative Dispute Resolution (ADR) Program in the Whistleblower Reprisal Investigations (WRI) Directorate for the DoD Office of Inspector General (OIG).

B. Issuance. This is a new instruction.

C. Applicability. This instruction applies to the OIG.

D. References. (See Appendix A.)

E. Acronyms and Abbreviations. (See Appendix B.)

F. Background. The OIG maintains the Whistleblower Protection Program for the DoD according to reference (a). This includes providing mechanisms for addressing complaints of reprisal according to reference (b). The OIG recognizes that in appropriate circumstances, there may be more effective methods to resolve whistleblower reprisal complaints, avoiding the potential cost, delay, and unpredictability of the investigative process. (See references (c) and (d).) The voluntary use of ADR processes, such as mediation, may often provide faster, less expensive, and more effective resolution of such disputes. In recognition of this, the OIG supports ADR and affirms the WRI Directorate will offer ADR services in a good faith effort to achieve consensual resolutions of complaints.

G. Policy. The WRI ADR Program:

1. offers ADR processes as an alternative to formal administrative investigations to address whistleblower reprisal complaints, when appropriate;
2. allows participants to voluntarily opt out of the ADR process for any reason prior to resolution; and
3. maintains and protects personally identifiable information collected during the course of an ADR process according to references (e) and (f).

H. Responsibilities.

1. The **Director, WRI:**
 - a. exercises overall responsibility for the ADR Program, ensuring its full implementation;
 - b. advises and represents the Inspector General on WRI ADR matters;
 - c. ensures the adherence to ADR and conflict management principles appropriate to the resolution of whistleblower reprisal complaints; and

d. supports and utilizes the ADR Program, to the maximum extent possible, and encourages the regulated community to participate.

2. The **ADR Supervisor:**

a. manages the ADR Program, developing appropriate procedures and serving as an ADR attorney in resolving cases;

b. ensures the provision of timely, consistent, and responsive ADR service by promptly assigning cases to ADR attorneys and ensuring they adhere to ADR principles; and

c. supervises ADR attorneys in the conduct of their duties.

3. The **ADR Attorneys:**

a. maintain their neutrality at all times;

b. maintain the confidentiality of ADR proceedings, not voluntarily disclosing dispute resolution communications unless otherwise required by law;

c. conduct an intake session with the participants to discuss the circumstances, issues, and desired outcomes;

d. give thorough information and help participants assess their options and appropriate avenues for ADR resolution;

e. advise all participants of their rights and responsibilities regarding voluntary participation, confidentiality, and possible limitations;

f. provide customized conflict resolution interventions to fit the unique needs of ADR participants, as needed;

g. assess the appropriateness of the particular ADR process to the dispute, and communicate with the participants to ensure that each is able to participate effectively within the context of ADR and is willing to do so in good faith; and

h. conduct ADR processes consistent with law, reference (d), this instruction, and applicable rules of professional conduct.

**APPENDIX A
REFERENCES**

- a. DoD Directive 5106.01, *Inspector General of the Department of Defense (IG DoD)*, April 20, 2012, as amended August 19, 2014
- b. Sections 1-13 of Title 5, United States Code, *Inspector General Act of 1978*, as amended December 5, 2008
- c. Section 571 of Title 5, United States Code, *Administrative Dispute Resolution Act of 1996*, October 19, 1996
- d. DoD Instruction 5145.05, *Alternative Dispute Resolution (ADR) and Conflict Management*, May 27, 2016
- e. DoD Directive 5400.11, *DoD Privacy Program*, October 29, 2014
- f. DoD 5400.11-R, *Department of Defense Privacy Program*, May 14, 2007

**APPENDIX B
ACRONYMS AND ABBREVIATIONS**

ADR	Alternative Dispute Resolution
OIG	Office of Inspector General
WRI	Whistleblower Reprisal Investigations