Subject: Alternative Dispute Resolution		Policy Number: ADM: 50
Revision Number: 01	Effective Date: 11/17/2025	Original Issue Date: 01/26/2009

1) PURPOSE

a) The purpose of this policy is to establish a program to resolve disputes between employees or employees and those who receive services from the Department. This will offer employees and others affected by decisions of the Department a means of resolving conflicts to avoid potentially negative personnel actions or costly litigation.

2) POLICY

a) It is the policy of the Department of Public Safety to encourage the use of Alternative Dispute Resolution (ADR) whenever possible to address conflicts before they become a serious detriment to the operations of the Department. With the consent of the disputants, a method of alternative dispute resolution may be used to resolve certain complaints or conflicts in a fair, impartial and timely manner. ADR is intended to facilitate communication between the disputants in an appropriate setting and lead to fast, less expensive and more productive results in eliminating workplace disputes. However, ADR is not appropriate to resolve all types of conflicts and complaints.

3) APPLICABILITY

a) This policy is applicable to all employees and clients of the Department of Public Safety (DPS).

4) REFERENCES

a) Governmental Dispute Prevention and Resolution Act (section12-8A-1 NMSA) - as amended 2007.
b) New Mexico Mediation Procedures Act.

5) DEFINITIONS

a) **ADR** – Alternate Dispute Resolution (mediation, facilitation, settlement conferences, arbitration, etc.) for purposes of this policy will be limited to mediation.
b) **ADR Coordinator** – An individual appointed by the DPS Cabinet Secretary to oversee the program.
c) **Client** – A person, other than an employee, who requests or receives services from DPS.
d) **Complainant** - A DPS employee making a verbal or written objection to actions of a coworker or to the terms or conditions of employment which are available for grievance. Also includes clients making a verbal or written objection to the administrative actions of the department or actions of a DPS employee.
e) **DPS** – Department of Public Safety.
f) **Employee** – A person who does work for, receives wages from, or whose work is under the direct control and supervision of DPS. For purposes of this policy, the term employee includes term, probationary, temporary, permanent, and exempt positions, but does not include independent contractors who perform work for DPS.
g) **Mediator** – A supervisory level employee who has obtained the required forty (40) hours of mediation training and is a neutral party who acts to encourage and facilitate the resolution of the dispute.

6) OPERATIONAL PROCEDURES

a) General Guidelines

i) Mediation will be available for use as a conflict resolution tool only where the dispute is of a nature which is grievable as allowed by State Personnel Board rules, departmental policy, or governing union contracts. Only disputes which are of such a significant nature as to require intervention will be submitted to mediation. This determination shall be made by the ADR coordinator in consultation with the grievant's supervisor and other parties with legitimate interest in the dispute. The complainant will receive a Pre-Mediation Questionnaire to determine whether or not the mediation process can fulfill his or her need. This can help identify and clarify issues. The Pre-Mediation Questionnaire will be turned into the ADR Coordinator who can review the matter in dispute and determine if mediation is the most effective method to a resolution.

ii) Depending on the nature of the dispute and the parties involved, an interested party may contact his or her supervisor to request mediation. If the dispute is with his or her supervisor, the interested party may contact the next level supervisor. When a next level supervisor is not available the ADR coordinator may be contacted directly.

iii) The ADR program will operate in accordance with State Personnel Board Rules, departmental policies, and union contracts, but shall not be in conflict with any due process rights of the participants. The ADR program shall not infringe on any procedural rights guaranteed to an employee of DPS through its departmental policies, statutory obligations or union contractual commitments.

b) **Procedural Steps**

i) Upon receipt of a verbal or written objection to actions of an employee the supervisor receiving the objection will consult with the ADR coordinator who will make an initial determination as to whether the acts complained of should be mediated. This will include a review of relevant personnel rules, departmental policies, and statutory regulations to determine any administrative and/or legal prohibitions.

ii) Mediation shall not be available for any complaints

(1) alleging threats, violence, intimidation, physical touching, assault or retaliation involving any of the aforementioned conduct; or

(2) in any situation where either of the disputants has previously been counseled or disciplined for the same or similar acts currently under dispute or

(3) in any situation where either of the disputants has previously entered into a mediation agreement involving the same or similar acts currently under dispute.

iii) If the acts complained of will be mediated the ADR coordinator shall consult with the individual raising the complaint to explain the mediation process and determine the complainant's willingness to mediate. If the complainant is willing to have his or her complaint mediated, then the ADR coordinator will contact the individual named in the complaint, explain the mediation process and determine if that individual is willing to participate in mediation.

iv) If all parties agree to attempt mediation the ADR coordinator will assign the case. Case assignment will be made based on the complexity of the issues at dispute and the relative experience of available mediators.

v) Because mediation is a voluntary process, if all parties to the dispute do not agree to participate in mediation the ADR coordinator shall refer the conflict to the appropriate administrative process, e.g. general grievance procedure, sexual and racial harassment and retaliation process or supervisory action.

In mediation, the mediator is not authorized to make decisions or force a decision on any party to the dispute. The role of the mediator includes, but is not limited to, assisting the parties to identify issues, fostering joint problem solving and exploring settlement opportunities. The mediator shall not provide counseling, therapy or legal advice to either party during the mediation process. If, however, the mediator believes that either party does not understand how an agreement may adversely affect either parties' rights or obligations, then the mediator should bring this issue to the attention of all parties involved.

Attorneys representing the parties are not allowed to be present during the mediation process. The process is intended to eliminate the costs, stressful emotions and delays of litigation. The ADR process does not determine legal, fault or factual issues. The focus of the process is to assist the parties in arriving at a collaborative solution to their issues that will determine their future course of action.

c) **Roles and Responsibilities**

i) DPS Cabinet Secretary – Responsible for providing resources to administer the program, including initial mediator skills training and any future training needed to keep mediators proficient as well as encouraging the use of the Alternative Dispute Resolution Program by DPS employees and its clients.

ii) ADR Program Coordinator – Monitors the use of the ADR Program within the Department; ensures proper training for all mediators who conduct mediation within DPS, serves as a resource for information, manages the procedural details of the mediation process, and makes case assignments to mediators from the roster of mediators.

iii) Mediators – Will be an impartial third party preferably outside of the employees' district or bureau. The mediator, who has no authority to

force a solution, helps parties to communicate and to work out a solution to their problem.

iv) Supervisors and Managers – Responsible for supporting the ADR Program by using the Program themselves and encouraging employees to use the ADR process. Keep subordinates informed about mediation through training, handouts, brochures, staff meetings, etc. Training on the ADR Program will also become part of the new employee orientation.

v) Employees – Will receive information from supervisors and consider mediation as an alternate form of resolution in disagreements or disputes that arise in the workplace.

d) **Stages of the Mediation Session**

i) Opening Statement – After review of the case, mediators will open the session with an explanation of the mediation process. The Agreement to Mediate and Confidentiality Agreement will be signed by all parties.

ii) Uninterrupted Time - Each party takes a turn speaking about anything that is relevant to the situation/complaint.

iii) The Exchange - The discussion begins. Employees explain why they are upset and may make demands. The mediators keep the discussion in bounds, making sure each person is heard and is protected. The mediators maintain civilized debate, moderate discussion, help set the agenda, smooth out interpersonal conflict, ensure all participants feel comfortable speaking, and keep the negotiations going, helping to achieve closure. Separate meetings called "caucuses" sometimes may occur between the mediator and an individual party at any time during the session.

iv) Setting the Agenda - Discussions shifts toward the future. The parties agree on issues that need to be resolved.

v) Building the Agreement - The parties work through each issue on the agenda generating a number of ideas, adjusting and testing the alternatives to come up with a workable solution. In some cases, the mediators may play a more active role in helping to come up with solutions, in others the parties are able to come up with their own solutions.

vi) Writing the Agreement - If the parties are able to settle their differences, the mediator writes a formal agreement (The Mediation Agreement) containing those decisions and forwards it to the ADR Coordinator.

Everyone present signs the agreement and takes a copy home. If the parties cannot agree or come up with a solution, a Statement of Non-agreement will be signed. The grievance process will then continue by respective State Personnel Board rules, departmental policy, or union contract.

vii) Closing - The mediators collect all notes and writings, other than signed documents, and destroy them. All signed documents are forwarded to the ADR Coordinator.

7) ATTACHMENTS

a) **Agreement to Mediate**
b) **Confidentiality Agreement**
c) **Disclosure of Mediator Conflicts of Interest**
d) **Mediation Agreement - Statement of Non-Agreement**
e) **Pre-Mediation Questionnaire**

8) APPROVAL

APPROVED BY: _____ **DATE:** 11/17/25

DPS Cabinet Secretary