

TABLE OF CONTENTS

	<u>PAGE</u>
MISSION STATEMENTS	2
ADR OFFICE ORGANIZATION	3
DEFINITIONS	4
BECOMING A DISTRICT COURT OF MARYLAND ADR VOLUNTEER	6
Volunteer Designations:	
Applicant	6
Apprentice	6
Panelist (Mediator or Settlement Conference Facilitator)	7
Peace Order Mediator	7
Special Set Facilitator	8
Mentor	8
GENERAL ADR PRINCIPLES	9
Voluntary Participation	9
Neutrality	9
Confidentiality	9
DAY OF TRIAL ADR PROCEDURE	11
GUIDELINES FOR VOLUNTEERS	13
VOLUNTEER PROCEDURES	14
PARTICIPATION OF OTHERS IN AN ADR SESSION	16
Participation of Representatives	16
Participation of Witnesses	16
If You Have an Observer in the Room	16
QUALITY ASSURANCE INITIATIVE	17
VOLUNTEER SUPPORT AND RECOGNITION	19
NON-SOLICITATION AGREEMENT AND PRIVATE ADR PRACTICE	20
APPENDICES	
Appendix 1: Opening Statement Checklist	22
Appendix 2: Mediation vs. Settlement Conference Facilitation – The Processes	23
Mediator vs. Facilitator – Qualifications	24

DISTRICT COURT OF MARYLAND OF MARYLAND **MISSION STATEMENT**

It is the mission of the District Court of Maryland to provide equal and exact justice for all who are involved in litigation before the Court.

It is the sworn obligation of the Judges of the Court to ensure that every case tried herein is adjudicated expeditiously, courteously, and according to law, and with the fullest protection for the rights of all who are involved, for the most extraordinary aspect of the judiciary in a free society is that even while exercising the vast authority entrusted to them, Judges remain the servants, and not the masters, of those on whom they sit in judgment.

It is the function of the non-judicial employees of the District Court of Maryland to facilitate the hearing and processing of all cases within the Court's jurisdiction, and to deal fairly, courteously, and patiently with all with whom they come into contact, without regard to age, race, sex, religion, national origin, disability, or political or social standing.

It was to ensure the fulfillment of these ideals that this Court was founded, and its commitment to them must always remain unwavering and unyielding.

ADR OFFICE MISSION STATEMENT

It is the mission of the District Court of Maryland to provide equal and exact justice for all who are involved in litigation before the Court. In order to promote a more civil society and to assist the District Court of Maryland in its mission, the Alternative Dispute Resolution (ADR) Office of the District Court of Maryland works to:

- Educate all participants (including Judges, Court personnel, Bar members, litigants, and other ADR providers) on the uses and benefits of ADR programs;
- Establish and maintain high quality ADR programs that empower litigants;
- Encourage the use of ADR options early-on and throughout the litigation process;
- Ensure that the ADR options are appropriate and accessible.

ADR OFFICE ORGANIZATION

The District Court of Maryland ADR Office (the ADR Office) is part of the Office of the Chief Judge of the District Court of Maryland. The director of ADR programs supervises the ADR staff and reports to the Chief Judge.

Honorable Ben C. Clyburn
Chief Judge
361 Rowe Boulevard
Annapolis, MD 21401

Alice R. Gonlin, Esq.
Director of ADR Programs
911A Commerce Road
Annapolis, MD 21401

Jennifer Adams
Administrative Assistant
911A Commerce Road
Annapolis, MD 21401
Phone: 410-260-1676
Fax: 410-260-1217
adroffice@courts.state.md.us

Maureen A. Denihan
Manager of ADR Volunteers
911A Commerce Road
Annapolis, MD 21401
Phone: 410-260-1677

Joanne Adams
ADR Coordinator
AA, PG and Southern Maryland
911A Commerce Road
Annapolis, MD 21401
Phone: 410-260-1678

Open
Scheduling Coordinator
911A Commerce Road
Annapolis, MD 21401
Phone: 410-836-4514
Fax: 410-836-4903

Cindy Faucette
Regional ADR Manager
101 North Court Street
Westminster, MD 21157
Phone: 410-871-3527
Fax: 410-871-3516

Marylyn Leet
ADR Coordinator
Baltimore Area
911A Commerce Road
Annapolis, MD 21401
Phone: 410-370-8685

Carla Mamana, M.S.
ADR Coordinator
Montgomery County
27 Courthouse Square, 2nd FL
Rockville, MD 20850
Phone: 301-279-1656
Fax: 301-279-1074

DEFINITIONS

DISTRICT: The District Court of Maryland is divided into twelve geographical districts. Eleven districts consist of one or more counties and one district consists of Baltimore City.

ADMINISTRATIVE JUDGE: Subject to the approval of the Chief Judge of the Court of Appeals, the Chief Judge of the District Court designates a District Court judge in each district as the Administrative Judge for that district. The Administrative Judge is responsible for the administration, operation, and maintenance of the Court in that district and for the conduct of the Court's business.

ADMINISTRATIVE CLERK: The Administrative Clerk in each district is responsible for the overall management and operation of the courthouse(s) in that district. This includes oversight of clerical staff, bailiffs and other court personnel. The administrative clerk is also responsible for the work within the district and for facility management.

ALTERNATIVE DISPUTE RESOLUTION (ADR): The process of resolving matters before the Court, through means other than litigation. Most commonly in the District Court of Maryland, ADR refers to either mediation or settlement conference facilitation (SCF). While pretrial settlement conferences conducted by active or retired Judges of the Court are ADR, the ADR Office does not administer these programs.

VOLUNTEER: An individual who is trained in either mediation or settlement conference facilitation, who provides, free of charge, an ADR service to litigants before the District Court while following the District Court of Maryland ADR Office's Policy and Procedure Manual.

FACILITATOR: Person who has completed an eight hour Settlement Conference Facilitation training course approved by the District Court of Maryland, and is licensed to practice law in Maryland or has specialized knowledge of the field. This individual is permitted to conduct a "settlement conference facilitation" as defined below.

SETTLEMENT CONFERENCE FACILITATION (Facilitation or SCF): A conference at which the parties and/or their attorneys, meet with an impartial person to discuss their issues and positions in respect to a dispute. This process is conducted as an attempt to resolve the dispute or issues in the dispute by agreement or by means other than trial. A settlement conference may include neutral case evaluation and neutral fact-finding. Also, the impartial person may recommend the terms of an agreement.

MEDIATOR: Person who has completed a forty-hour training that meets the requirements of Maryland Rule 17-106 and has a bachelor's degree. This individual is permitted to conduct a "mediation" as defined below.

MEDIATION: A process, in which the parties work with one or more impartial volunteer who, without providing legal advice, assists the parties in reaching their own voluntary agreement for the resolution of the dispute or issues in the dispute. A mediator may, identify issues and options; assist the parties or their representatives in exploring the interests underlying their respective positions; and upon request, record points of agreement reached by the parties. While acting as a mediator, the volunteer does not engage in any other ADR process and does not recommend the terms of an agreement.

MENTOR: A person who has served as a volunteer for the District Court ADR Programs for at least two years, has demonstrated strong practice skills, has successfully completed the District Court's mentoring training and has agreed to serve as a mentor for new ADR volunteers in the District Court's mentoring process.

DAY OF TRIAL ADR PROCESS: An ADR session that occurs in a District Court of Maryland Courthouse on the parties' trial date.

PRE-TRIAL ADR PROCESS: An ADR session that occurs somewhere other than a District Court location, i.e., Community Mediation Center, prior to the parties' trial date.

SMALL CLAIM: A case that is filed for five-thousand dollars or less; brought for money only and not for the return of property or performance of a service; and for which there is no intent to request any discovery before trial. Frequently these cases are filed by *pro se* (unrepresented) litigants.

SPECIAL SET: A case in which one or more parties have indicated to the court that the trial will take two hours or longer. Upon receiving such notice, the court may schedule the case on its own docket rather than scheduling it during a full docket of civil trials.

PEACE ORDER: A civil order issued by a judge to prevent one person from committing certain acts against others.

BECOMING A DISTRICT COURT OF MARYLAND **ADR VOLUNTEER**

The District Court of Maryland utilizes trained mediators and settlement conference facilitators as volunteers. District Court Volunteers come from all walks of life, with diverse backgrounds and experiences. Every volunteer mediator receives extensive training in conflict resolution and listening skills. Volunteers play a key role in allowing the District Court to provide ADR services to litigants free of charge.

Volunteers are required to accurately identify themselves to litigants as either a mediator or settlement conference facilitator, and to conduct only that process throughout the entirety of each ADR session. Even though participation in ADR is voluntary for litigants, it is offered in lieu of the litigant's constitutional right to trial, so it is important for the ADR service to be of high quality and be accurately represented to participants.

The District Court of Maryland does not discriminate in the recruitment, acceptance, or retaining of volunteers with regard to age, sex, race, religion, creed, ethnic origin, or disability. To participate as a mediator, a volunteer must have completed a forty-hour training that meets the criteria of Maryland Rule 17-106 and proceed through each of the three stages set forth below. To participate as a facilitator of settlement conferences, a volunteer has to complete an eight-hour training approved by the District Court of Maryland Alternative Dispute Resolution (ADR) Office, and proceed each of the three stages set forth below. Completion of stages 4, 5, and 6 are by invitation only.

1. Applicant

- Complete and submit the ADR Office's volunteer application (See Appendix 1) and all necessary supporting documentation.

Note: An affirmative answer to any question in section five of the application regarding criminal or disciplinary actions will result in a review of the application by the Chief Judge of the District Court who's decision concerning that acceptance of the applicant is deemed final.

- Attend a mandatory orientation presented by the ADR Office.
- Successfully complete apprenticeship.

2. Apprentice

- Complete two observations of an approved mediator or facilitator in the courthouse in which the volunteer will serve; complete an observation sheet after each observation; and forward the observation sheet to the ADR Office's Manager of ADR Volunteers.

- Be observed and evaluated twice by ADR Office staff or approved volunteer mentors who will provide constructive feedback. If after completing two observations, the volunteer does not feel comfortable attempting to conduct an ADR session solo while being observed, an ADR office staff member or an approved mentor will be scheduled to co-mediate with the volunteer applicant first.
- When the volunteer applicant is able to complete two ADR sessions solo while demonstrating the required skills indicated on the ADR office's "Practitioner's Evaluation Form, the volunteer will qualify as a panel mediator or settlement conference facilitator.
- If, after being observed and evaluated, the volunteer applicant does not demonstrate sufficient skill to practice independently, after being observed and evaluated, additional professional development steps must be taken before the applicant is placed on any District's panel of eligible volunteers. Additional professional development steps might include additional training or observations, pertinent reading assignments, or additional co-mediation with the ADR Office staff or approved mentors.

Note: The assessment forms used by ADR Office staff or mentors to provide feedback are viewed only by ADR Office staff and the volunteer. Copies are available for the volunteer but the original will remain in the ADR Office in the volunteer's file. The same policy applies to participant surveys.

3. Panelist (Mediator or Settlement Conference Facilitator)

- Successful completion of Apprenticeship.
- Agree to be receptive and responsive to feedback from both participant survey results, and ADR Office staff who may randomly observe an ADR session.
- Agree to participate in at least two ADR meetings/training sessions sponsored by the ADR Office each year.
- Agree to abide by the Maryland Standards of Conduct for Mediators and Other ADR Practitioners.
- Mediators with the District Court of Maryland agree to participate in the Maryland Program for Mediator Excellence (MPME) upon implementation.

4. Peace Order Mediator

- Complete twelve months of volunteer service in District Court ADR programs and conduct at least 12 ADR sessions.

- Complete an eight-hour peace order mediation training provided by the District Court ADR Office.
- Observe at least two peace order mediation sessions.
- Continue to comply with the requirements for a panel mediator.

5. Special Set Facilitator

- Complete eighteen months of volunteer service in District Court ADR program and conduct at least twenty ADR sessions.
- Continue to comply with the requirements for a panel mediator or settlement conference facilitator.

6. Mentor

- Complete eighteen months of volunteer service in District Court ADR programs and conduct at least twenty ADR sessions.
- Complete a four-hour mentor training provided by the District Court ADR office.
- Continue to comply with the requirements for a panel mediator or settlement conference facilitator.
- Agree to observe live ADR sessions or training role-plays, or to co-mediate with new volunteers at least three times per year.

GENERAL ADR PRINCIPLES

VOLUNTARY PARTICIPATION:

The District Court of Maryland offers mediation and settlement conference facilitations (SCF) to litigants as voluntary alternative dispute resolution processes. Similarly, mediators and facilitators participate on a voluntary basis. ADR Participants reserve the right to withdraw from the process at any time. Participation in mediation or SCF does not affect a party's right to address a dispute by other means.

NEUTRALITY:

Mediation and SCF are neutral processes. It is important that volunteers do not show favoritism, bias, assess blame, or express an opinion about a possible solution/outcome of the case at trial. Participants are more likely to accept the terms of an agreement when they have crafted the solution themselves. If the volunteer offers solutions, participants might become inhibited from offering their own solutions, or may regard the volunteer's solution as "better" or carrying more credibility. Furthermore, due to the complex nature of disputes, volunteers may not foresee all the implications of a suggested solution, and unknowingly make the situation worse.

Mediators may not make suggestions or offer solutions because in doing so they are acting outside of District Court of Maryland policy, and therefore may be liable for any negative outcome to a participant who acts at the suggestion of a volunteer.

In accordance with Title 17 of the Maryland Rules, which the District Court volunteers agree to follow, a settlement conference facilitator may suggest terms of an agreement **without giving legal or procedural advice**. According to Maryland case law, legal advice is considered to be applying the law to the specific facts of the participant's case, and includes procedural advice. If the terms of an agreement are suggested by the volunteer it must be done after the parties have been given every opportunity to suggest their own terms and it must be presented neutrally: "In similar situations I've seen some people try....", rather than "I think you should try _____because_____."

At the beginning of each ADR session, all District Court ADR volunteers must survey the participants for prospective or actual conflicts of interest. The volunteer must disclose any personal or professional connection to all of the participants in an ADR session. If anyone objects to continuing the process after disclosure, the volunteer must recuse him/herself from the process. If there is no objection by a participant, the volunteer may proceed.

CONFIDENTIALITY:

Mediation and SCF are confidential processes. All information and behavior from a participant is held in confidence by the volunteer and may not be shared with anyone.

There are exceptions to the rule of confidentiality. The volunteer will explain confidentiality and its exceptions to the participants at the beginning of the ADR session.

Neither the District Court of Maryland nor its ADR volunteers will hold in confidence any act of violence, credible threat of violence, or evidence of child or elder abuse that occurs during intake or an ADR session. Any actions or statements by a participant that fall within the above referenced exceptions will cause the volunteer to end the session immediately, and bring the act or statement to the attention of Court personnel who will notify the appropriate responding agency.

If an act or statement that falls within the exceptions to confidentiality occurs during a day of trial ADR session, the volunteer will end the ADR session, refer the parties back to the exceptions to confidentiality, and bring the matter to the attention of the Judge who referred the case. The Judge will then decide how to proceed with the information. If the incident occurs during a pre-trial ADR session, the volunteer will close the session and notify the program Coordinator who will notify the proper responding agency.

If an act of violence occurs during an ADR session, the volunteer should call the police if necessary to secure their safety or that of the parties. If the threat is not ongoing (i.e. the perpetrator leaves the session) the volunteer may leave it up to the victim to decide whether to contact the police. The volunteer may provide police with information regarding the act of violence, but confidentiality and neutrality are only suspended to the extent required to ensure the safety of the volunteer and parties. Information or behavior in the ADR session unrelated to the act of violence should not be shared.

DAY OF TRIAL ADR PROCEDURE

The District Court of Maryland ADR Office may conduct day of trial programs in one of two ways. The Manager of ADR Volunteers may recruit, maintain, and schedule volunteers, or develop an agreement with an Outside Service Provider (OSP) already operating in the District to utilize that OSP's volunteers, case management system, and staff.

Generally, volunteers are scheduled quarterly. The dates, times, and locations utilizing volunteers is determined by the ADR Director and the Administration in each District. The Manager of ADR Volunteers or OSP Coordinator sends a scheduling request to the volunteer pool indicating the available shifts open for each docket. The schedule is completed two weeks prior to the start of the new quarter, and distributed to Court personnel and the volunteers.

Slight variances may exist in individual Districts based on available space and personnel and if so, those differences will be provided to the volunteers in those Districts during orientation. However, the following is how District Court volunteers operate in day of trial programs:

1. The Court designates a "check-in person" or "check-in-site" to whom/which the volunteers report upon arrival to collect the forms they need to conduct their ADR process.
2. The volunteers proceed to the assigned courtroom and identify themselves to the courtroom clerk or bailiff. The clerk or bailiff advises the Judge that there is a volunteer present.
3. Districts using mediators, and that have the necessary equipment and approval from the Administration, may show the five-minute video "Mediation in the District Court of Maryland" prior to the Judge taking the bench.
4. Upon taking the bench, and as part of introductory statements to the courtroom, the Judge advises that a mediator or facilitator is available.
5. The Judge calls each contested case with both parties present, one at a time, and asks each set of litigants if they would like to participate in ADR.
6. When both parties in a case agree to participate, the volunteer and the parties go to designated confidential meeting rooms and conduct the ADR session.
 - a. The "Agreement to Participate in ADR" is completed. The original is placed in the Court's file and each party is given a copy.

- b. The volunteer provides each party with a “Participant Response Survey” upon completion, *whether or not an agreement is reached*, collects the survey from the participants, and places it in the designated receptacle or provides it to the designated Court personnel.
7. If no agreement is reached, the parties return to the Courtroom and wait to be called for trial by the Judge.
8. If an agreement is reached, a copy of the agreement is provided to each party and the original is placed in the Court’s file. The parties return to the Courtroom with the volunteer, who notifies the bailiff or clerk that the parties have settled and returns the file to the bailiff or clerk.
9. After checking with the Judge to see if additional cases will be referred, the volunteer leaves the parties alone with the Court and exits the Courtroom.
10. The Judge calls the parties’ case immediately and reviews the agreement. At the Judge’s discretion or upon request of the parties, the Judge may read the agreement into the record. After inquiring as to whether the agreement reflects the parties’ mutual understanding, the Judge passes the case for settlement. The Judge advises the parties to notify the Court in writing when the agreement is fulfilled or if it is breached.
11. If an agreement is reached in a District that does not utilize the “pass for settlement” case disposition process, the Judge may occasionally dismiss the case. This usually occurs when the terms of the agreement have been fulfilled, i.e., checks for payment have been exchanged. In any agreement, if asked, the Judge will usually advise the parties to notify the Court in writing if the agreement is breached.
12. The practitioner should complete the green ADR Practitioner Activity Report during each session.
13. ADR Office staff will collect paperwork from designated Court personnel or designated sites in each District on a regular basis to maintain statistics on the program, and review participant surveys.

GUIDELINES FOR VOLUNTEERS

DRESS CODE:

All volunteers with the District Court are expected to dress in a businesslike manner, with apparel which appropriately reflects the dignity of the Court and which is consistent with a productive atmosphere. The Court relies on the judgment and common sense of all volunteers to interpret this guideline in the proper light, and to exercise good taste in their attire while working in any facility of the District Court. If you have any questions about what might or might not be appropriate, please contact the ADR Volunteer Manager.

PROMPTNESS AND ATTENDANCE:

Volunteers need to arrive 15 minutes before the docket is called. This allows you time to meet the judge and if necessary to review any files you may be working on that day.

If you have a last minute emergency, please call the respective person listed above to report your absence. If you are scheduled to volunteer and you know in advance that you cannot make your scheduled date, use the contact list to locate a replacement. Most often you will be able to find a replacement or find a volunteer that is willing to “swap” days with you. Report this change ahead of time to the ADR Office **(410) 260.1676**.

THINGS TO REMEMBER:

- You are to remain neutral, you are not to give legal advice and you must maintain confidentiality of what is said in the mediation.
- Turn off cell phones and beepers prior to entering the courtroom.
- Please, do not chew gum.
- It is important to keep a pleasant and professional demeanor at all times.
- Please write neatly. The settlement agreement becomes part of the Court file.

VOLUNTEER PROCEDURES

ITEMS YOU MAY WANT TO BRING WITH YOU:

- District Court Handouts
- Paper
- Pens
- Watch
- Calculator

ARRIVAL:

Arrive 15 minutes prior to the docket being called. Check in with the ADR contact person, sign in, pick-up the ADR folder, and get your courtroom assignment. Find out if you need to meet with the judge or if you need to review any cases prior to the docket being called.

PICK-UP THE ADR FOLDER:

The ADR packet will include all the forms needed for each ADR session. A complete set of forms includes the following:

- Agreement to Participate in ADR (1)
- ADR Practitioner Activity Report (1)
- Participant Evaluation (1 for each party)
- Settlement Agreement (1)
- In addition, the packet will include paper, pens, and a calculator.

WHILE IN THE COURTROOM:

Go to your assigned courtroom. Check the ADR conference room to make sure that there are enough chairs, and that it is empty. If there are not at least three chairs, you will need to go to another ADR conference room to obtain more chairs. Introduce yourself to the bailiff and the clerk. Sit in the front of the court and wait patiently and quietly for the judge to take the bench.

The judge will take the bench and call the docket. Once the judge calls a case for ADR the bailiff will bring you the case file. Quickly review the case file to get a general idea of the dispute. Generally, you will glean enough information by reading the Complaint and the Intention to Defend.

Write down the names of the Plaintiff(s), the names of the Defendant(s), and the case number on the "Agreement to Participate in ADR" form. Take the parties back to the ADR conference room. Make sure that only the parties to the suit are in the room. Friends, family members and witnesses can wait in the lobby area. Close the door and begin the session with your opening statement.

OPENING STATEMENT:

Use the checklist (Appendix 1).

WINDING-UP THE ADR SESSION:

If the parties have reached an agreement, you can help them to reduce it to writing. You should not, however, be anything more than a scribe. Have both parties read and sign the Settlement Agreement form and complete the Participant Evaluation form. You are to complete the ADR Practitioner Activity Report form. Thank the parties for their time and effort.

Take the parties back into the courtroom. Give the bailiff the signed Agreement to Participate in ADR form and the Settlement Agreement. Each party should be given a copy of the Settlement Agreement. If additional copies are required, either the bailiff will make copies or you can go to the clerk's office to have it copied. This is something you will have to check out with the individual bailiffs. Wait to be given another case to mediate or for the judge to dismiss you.

If the parties have not reached an agreement, thank them for their time and effort. Remain positive. Have the parties complete the Participant Evaluation form and you complete the ADR Practitioner Activity Report form.

Take the parties back into the courtroom. Give the bailiff the signed Agreement to Participate in ADR form. Wait to be given another case to mediate or for the judge to dismiss you.

Once you are dismissed, pick up your personal items and return the ADR packet, your ADR Practitioner Activity Report form and any completed Participant Evaluation forms to the ADR contact person. You are free to leave the courthouse.

Note: All ADR forms are property of the District Court of Maryland and must not leave the courthouse. The Agreement to Participate in ADR and the Settlement Agreement become part of the court file. The Participant Evaluation and the ADR Practitioner Activity Report forms are reviewed by the ADR Office for compliance to procedures, statistics and comments.

Thank you for your service. Report any problems or concerns to the **ADR Office at (410) 260-1676.**

PARTICIPATION OF OTHERS **IN AN ADR SESSION**

PARTICIPATION OF REPRESENTATIVES:

Attorneys, relatives, guardians, and any other person designated by a party in person or in proper written form as a representative, are welcome in District Court of Maryland ADR sessions, whether the sessions are conducted pre-trial or day of trial. The process is voluntary with each party being able to set his or her own conditions, and the choice is then up to the other party whether or not to proceed under the conditions. If one party objects to the participation of an unexpected representative, then the party with the representative must decide whether to proceed without representation or to decline to participate.

The volunteer should not try to persuade one party or the other to proceed or not proceed based on the participation of a representative. If both parties agree to continue with the representative, then the volunteer may encourage the representative to allow the party to be the primary participant, but understand that the decision is between the party and the representative. Representatives must sign the Agreement to Participate in ADR form.

PARTICIPATION OF WITNESSES:

If either party prefers to have witnesses in the room during the ADR session, the volunteer should try to determine the purpose of witness participation. Initially, begin the ADR session with only the parties to the case present. This is done for two reasons. First, space and seating in the ADR rooms are limited. Second, the witnesses are not a party to the case and may impede the ADR process. Third, witnesses are not necessary in an ADR session since the volunteer is not providing a determination based on evidence. However, if a party believes that a witness can provide information that might be useful for another party to hear, or wants a person present for moral support, then the witness may participate. Witnesses and observers in the session must sign the Agreement to Participate in ADR form.

IF YOU HAVE AN OBSERVER IN THE ROOM:

The observer must also sign the Agreement to Participate in ADR. The observer is bound by the confidentiality rules as well. In addition, it is highly suggested that the observer not take notes. Clearly explain the observer's role before going forward with the ADR session.

QUALITY ASSURANCE INITIATIVE

The District Court of Maryland is one of the largest ADR service providers in the State. Because of this, and because the Code of Conduct requires it of court related ADR programs, the District Court of Maryland has an enhanced obligation to monitor its ADR programs for quality, and provide a responsive process for both litigants and volunteers when quality concerns are raised. The relationship between the ADR practitioner and the District Court is voluntary for both the ADR practitioner and the District Court of Maryland. The application, training, and observation requirements set forth in the section entitled “How to Become a District Court ADR Volunteer” are part of the District Court’s initial screening process, but quality assurance efforts are ongoing in each program.

Any of the following events may initiate a quality assurance review by the District Court ADR Office: 1) low ratings on, or complaints listed on, the participant surveys; 2) a written or verbal complaint from a participant to the court in which the session took place or to the ADR Office, indicating a volunteer may have undertaken practice outside the Maryland Code of Conduct or the District Court ADR policies and procedures set forth here-in; or 3) process errors, practice outside the Maryland Code of Conduct or the District Court ADR policies and procedures set forth herein noted during a random observation by ADR Office staff. Any of the aforementioned triggering events results in an interview with and observation of the volunteer by a staff member from the ADR Office, who will provide immediate feedback. Complainants may also be interviewed, if necessary, so the ADR Office can determine what occurred during the session. The ADR Office will provide professional development recommendations if applicable.

Professional development recommendations may include a suggestion of more training in a particular skill set, co-mediating/facilitating with a mentor approved by the ADR Office, reading materials on point, or observing an approved practitioner, before returning to the volunteer panel. If the volunteer is affiliated with an outside service provider (OSP), that organization will be made aware of the concerns in writing by ADR Office staff, and corrective steps requested of the OSP before the volunteer is scheduled again. If a volunteer declines the professional development recommendations, the volunteer is removed from the panel. If, despite taking the recommended steps for professional development, the volunteer continues to engage in practice outside the Code of Conduct or District Court policy and procedure, the volunteer will be removed from the panel by the ADR Office.

A volunteer will be notified of removal from the panel in writing by the ADR Office, and may appeal the decision to remove as follows:

1. Removal from the panel can be appealed to the Director of District Court ADR Programs (the Director) in writing, which must be received within 30 days of the receipt of the notice of removal.

2. The Director may conduct her own investigation of the matter which may include interviews with the volunteer, parties involved, and a review of any written documents from the ADR session; and/or
3. May observe and evaluate the ADR practitioner or request that another member of the ADR staff observe and evaluate the volunteer in order to compare the evaluations before making an independent determination.
4. Determinations by the Director will be final and will be issued in writing to the Volunteer within 60 days of the receipt of the appeal.

VOLUNTEER SUPPORT AND RECOGNITION

The District Court is grateful for the commitment of its volunteers. The ADR Office hosts an annual statewide volunteer recognition event during which the Chief Judge recognizes volunteers who have provided a considerable number of hours in their respective Districts and have made a significant contribution to the District Court Alternative Dispute Resolution Office.

Additionally the ADR Office organizes and presents numerous free trainings each year to benefit our volunteers. Topics in the past have included “Dealing with Diversity Issues in a Session,” “Mediating Peace Orders,” “Ethics,” and “Agreement Writing.” These sessions count towards the eight-hour continuing education requirement for mediators in Circuit Court programs, in accordance to Title 17.

Finally, each January, the District Court ADR Office compiles and mails an annual report to each volunteer that is based on the completed ADR. Practitioner Activity reports. This report provides the volunteer with their total number of hours served for the previous calendar year. For attorney volunteers, these hours can be included in their annual mandatory pro bono report.

NON-SOLICITATION AGREEMENT

All volunteers agree that they will not use their volunteer practice with the District Court of Maryland to recruit or solicit clients for a private ADR practice, for a law practice or for any other business or economic reason. If the parties to a District Court of Maryland ADR session subsequently contact the volunteer for follow-up ADR sessions, for legal representation or for other business or economic reasons, the volunteer must make clear that service is not being provided on behalf of the District Court of Maryland. If the service requested is ADR, the volunteer must not use District Court of Maryland ADR forms in the subsequent ADR session(s).

APPENDICES

OPENING STATEMENT CHECKLIST

Make sure the following basic points are covered in your opening statement. You may cover more than the following, but not less.

ADR Practitioner

Introduction:

Name.
Volunteer with the District Court.

Party Introductions:

Names.
Identify the plaintiff(s) and the defendant(s).
Confirm that they have authority to settle.
Find out if there are any missing parties. (It is okay to proceed if witnesses are missing; but, don't proceed if a party is missing.)
Confirm that there is no ADR Practitioner conflict of interest.

Explain the Process:

Inform the parties about how the session will proceed.
Purpose: to assist parties in resolving their dispute, facilitate communication, and define the issues.
Confidentiality: Confidential process, will not discuss outside this room, EXCEPT criminal act; the session does not destroy any of their rights to a fair trial; agree not to subpoena; information discussed in the mediation session will not be used at trial.
Neutrality: You will not decide the case, you will not render a verdict, you will not give legal advice, and you are not vested in the outcome.

Note: Individual caucuses are not always necessary with these cases. If you decide to have individual caucuses you can explain them at that time.

Ground Rules:

Good faith effort at process.
Avoid inflammatory language.
Each will be given the opportunity to talk; respect one another; avoid interruptions: take notes.

Allow Questions

Sign the Agreement to Participate (three part form)

MEDIATION vs. SETTLEMENT CONFERENCE FACILITATION

The Processes (Briefly)

<u>MEDIATION</u>	<u>SETTLEMENT CONFERENCE FACILITATION</u>
<p>MEDIATOR (S) INTRODUCTION Form: Agreement to Participate in ADR</p>	<p>FACILITATOR INTRODUCTION Form: Agreement to Participate in ADR</p>
<p>INFORMATION GATHERING</p> <ul style="list-style-type: none"> • OPENING COMMENTS BY PARTIES • IDENTIFY ISSUES AND INTERESTS <p><i>(A mediator does not state the law; give legal advice or procedural advice.)</i></p>	<p>INFORMATION GATHERING</p> <ul style="list-style-type: none"> • OPENING COMMENTS BY PARTIES • IDENTIFY ISSUES AND INTERESTS <p><i>(A facilitator may state the law related to legal issues but <u>cannot</u> give legal advice or procedural advice.)</i></p>
<p>GENERATE AND EVALUATE OPTIONS</p> <p><i>(A mediator does not suggest options to the parties or recommend terms of an agreement.)</i></p>	<p>GENERATE AND EVALUATE OPTIONS</p> <p><i>(A facilitator MAY suggest options to the parties or recommend terms of an agreement.)</i></p>
<p>AGREEMENT WRITING Form: Settlement Agreement Form: Participant Survey</p>	<p>AGREEMENT WRITING Form: Settlement Agreement Form: Participant Survey</p>
<p>Form: ADR Practitioner Activity Report</p>	<p>Form: ADR Practitioner Activity Report</p>

MEDIATOR vs. FACILITATOR

Qualifications

Qualifications:	Mediator:	Facilitator:
Age	21 years of age	Not specified
Education	Bachelor's Degree	JD or specialized knowledge
Required License	None	A member in good standing of the Maryland bar
Training	40 Hours of Basic Mediation Training	8 Hours of Settlement Conference Training
Ethical Requirements	Abide by Standards adopted by the Court of Appeals <i>and if an attorney</i> , Professional Rules of Conduct for Maryland attorneys	Abide by Standards adopted by the Court of Appeals <i>and</i> Professional Rules of Conduct for Maryland attorneys
Required Application	District Court of Maryland Alternative Dispute Resolution Volunteer Application (ADR 1)	District Court of Maryland Alternative Dispute Resolution Volunteer Application (ADR 1)
Continuing Education	8 hours every two years encouraged	8 hours every two years encouraged
Observations	Observe two mediation sessions of at least one hour each in length and be observed twice prior to being placed on the schedule	Observe two facilitated settlement conferences of at least one hour each in length and be observed twice prior to being placed on the schedule
Monitoring	Submit to periodic monitoring by ADR Office for professional development and quality assurance purposes	Submit to periodic monitoring by ADR Office for professional development and quality assurance purposes