



UNIVERSITY OF
KWAZULU-NATAL

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YAKWAZULU-NATALI

ALTERNATE DISPUTE RESOLUTION PROCEDURE

DESCRIPTION			
TITLE	CONFLICT RESOLUTION PROCEDURE		
SOP NUMBER			
COMPILED BY	MICHAEL CLOETE – MANAGER: HUMAN RESOURCES DEVELOPMENT		
SIGNATURE		DATE	1 July 2015
EFFECTIVE DATE	1 JULY 2015		
REVIEW DATE	30 JUNE 2018		
APPROVED BY	AVRIL WILLIAMSON: EXECUTIVE DIRECTOR - HR		
SIGNATURE			
DATE			

1. PURPOSE

The purpose of this document is to outline procedure to be followed in resolving employment relationship conflict. The aim is to resolve the issue/disagreement as quickly and efficiently as possible and at the lowest operational level.

2. DEFINITION OF TERMS

Alternative Dispute Resolution ('ADR'): A collection of processes used separately or together for the purpose of resolving disputes (issues/disagreements) informally and confidentially. ADR processes are voluntary, expeditious, flexible, non-adversarial, controlled by the parties and focus on the relationship between the parties. ADR provide alternatives to formal institutional processes, namely, formal counselling sessions, disciplinary action, poor work performance investigations, ill-health or injury investigations and formal grievances.

Coaching: An ADR process whereby a coach takes both through a process of asking them thought provoking questions to help them reflect on the conflict and think of ways of resolving it themselves.

Conciliation: An ADR process in which parties to a dispute, with the assistance of a neutral third party (the conciliator), identify the disputed issues, develop options, consider alternatives, and endeavour to reach an agreement. The conciliator may have an advisory role in the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of the conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.

Dispute (issue/disagreement): refers to unresolvable differences of opinions.

Dispute Referral Form: refers to a document that is completed by an employee in terms of which s/he refers a dispute to the Human Resource Development). It is important to note that any conflict must be resolved at the point of initiation before it is referred to HRD.

Facilitation: An ADR process whereby a facilitator assists two or more parties in their communications concerning a dispute by bringing the parties together in some or other form of meeting or process. The facilitator may also chair or manage (facilitate) the meeting undertaken by the parties. In so doing, s/he may (but not necessarily so) transform the facilitator's role to that of mediator.

Fact-finding: An ADR process whereby a person or persons is appointed, often with technical expertise in the subject matter or the dispute, to evaluate the material presented and to present a report which establishes the relevant facts. The fact-finder is not authorized to resolve policy issues or decide matters of law or equity. Following the findings, the parties may then negotiate a settlement, conduct further proceedings or conduct further research.

Formal processes: refers to a formal counselling session, disciplinary action, a poor work performance investigation, an ill-health/injury investigation or the use of the formal grievance procedure.

Formal referral: refers to an employee completing the Dispute Referral Form thus formally referring a dispute to the Human Resource Development Unit.

Informal discussions: An ADR process whereby the parties choose to resolve their dispute on an informal basis through discussion and problem solving.

Informal referral: refers to all conflict, being referred to the College or Division Human Resource Managers in the first instance and as a matter of course, for assessment on whether ADR can be applied to the disputes.

Mediation: An ADR process in which the parties to a dispute, with the assistance of a neutral third party (the mediator), identify the disputed issues, develop options, consider alternatives, and endeavour to reach an agreement. The outcome of its resolution, but may advise on or determine the mediator has no advisory or determinative role in regard to the content of the dispute or the process of the mediation whereby resolution is attempted.

Negotiation: An ADR process whereby the participants voluntarily join in a temporary relationship designed to educate each other about their needs and interests, to exchange specific resources or to resolve one or more tangible issues such as the form the relationship will take in the future or the procedure by which problems are to be solved.

3. PROCEDURE

Refer to Flow Diagram which is attached as Annexure A hereto (Employment Relationship flow diagram)

The Alternative Dispute Resolution procedure is initiated when a dispute (issue/disagreement) is formally or informally referred to the Human Resource Development Unit.

Phase 1: Informal Stage

Step 1: Refer to Line Manager

Employee informally refers the issue/disagreement to the Line Manager **within 3 (three) working days** of the event(s). If the Line Manager is the subject of the issue/disagreement it must be referred to the next higher Line Manager. The Line Manager (or next higher Line Manager as appropriate) must hold an informal meeting in an attempt to resolve the issue/disagreement **within 3 (three) working days** of receiving it

Step 2: Deputy Vice Chancellor (DVC)/Executive Director (ED PS) division

If the issue/disagreement is unresolved the Line Manager (or next higher Line Manager where relevant) shall refer the issue/disagreement to the Deputy Vice Chancellor (DVC)/Executive Director (ED PS) division (as appropriate) **within 3 (three) working days** of the informal meeting along with all the facts, employee's response, supporting documents, actions taken to resolve it and the outcome

If the issue/disagreement is unresolved the DVC/ED PS division must refer the issue/disagreement to HR **within 3 (three) working days** of the informal meeting, on the prescribed ADR form, along with all the facts, employee's response, supporting documents, actions taken to resolve it and the outcome (Part A of the ADR form is completed).

Phase 2: Formal ADR process

Step 1: Determine if ADR is appropriate

Upon receipt of the unresolved written dispute (issue/disagreement) HR shall immediately acknowledge receipt to the parties concerned and **within 5 (five) working days** determine, in consultation with HRD, if ADR is appropriate to deal with the dispute (issue/disagreement). Either HR or HRD will facilitate the ADR session depending on the availability of staff and the extent to which either is involved/has been involved in the issue that is the subject of ADR. HR and HRD will jointly determine who will facilitate the ADR session and inform the parties

involved. The HR/HRD Manager assigned to the case shall request all the relevant information and documentation and assess them to ascertain whether the issue is suitable for ADR. If necessary he/she may request to meet the parties. If ADR is appropriate HR/HRD shall immediately obtain the parties' consent to ADR (part B of the ADR form). If ADR is not appropriate or if the parties do not consent to ADR, HR/HRD shall immediately inform the parties concerned, along with the reasons, and the appropriate formal process shall be initiated **within 5 (five) working days**.

Step 2: ADR meeting

If ADR is appropriate the HR/HRD Manager investigates and attempts to resolve the issue/disagreement at a meeting between the parties through facilitation, mediation, coaching or conciliation **within 5 (five) working days** of the receipt of the parties' written consent to ADR. If the dispute (issue/disagreement) is resolved both parties consent to the implementation of the recommendations in writing, on the prescribed ADR form.

Step 3: Implementation of ADR recommendations

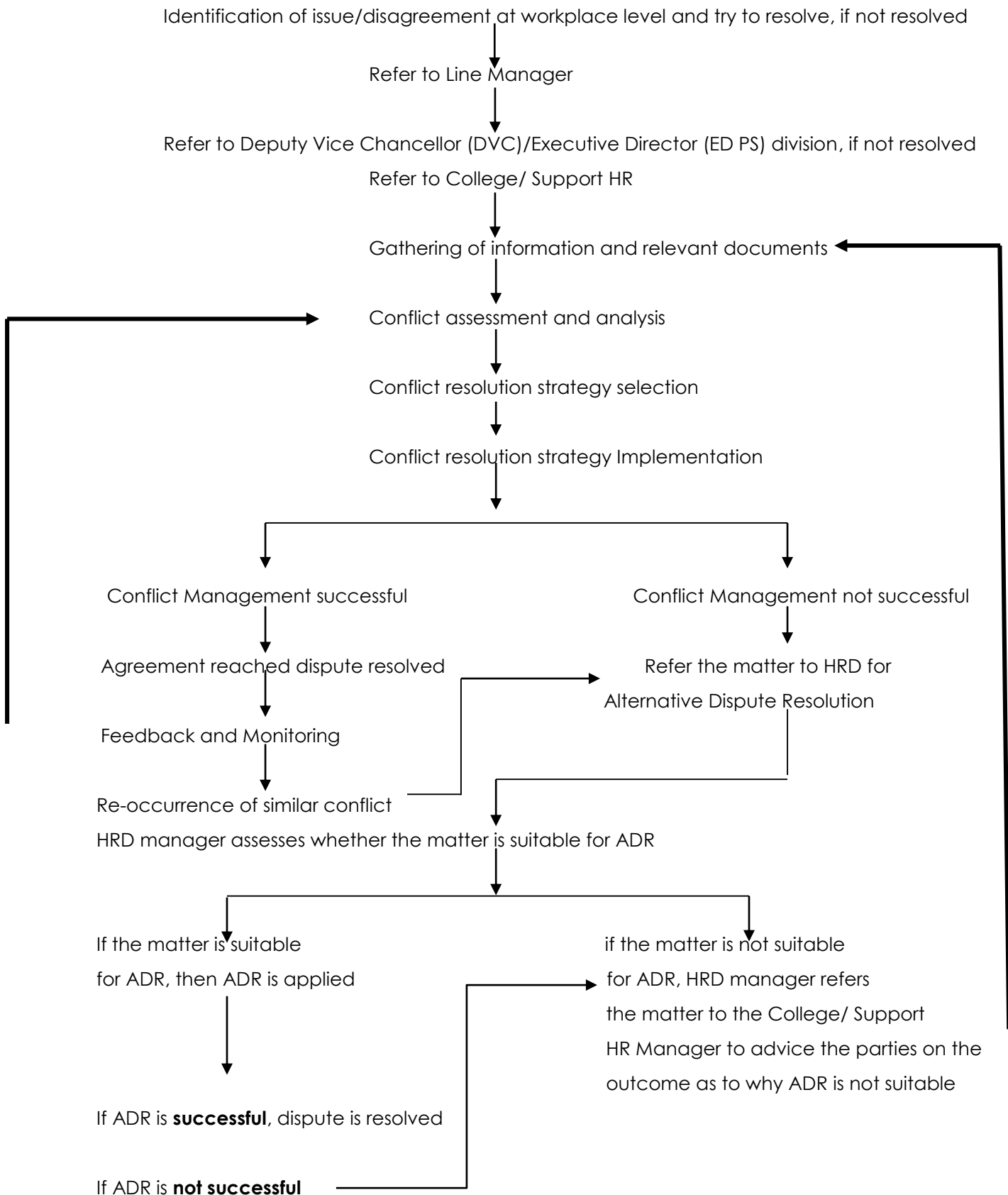
The HR/HRD Manager completes the relevant section of the ADR referral form regarding the outcome of the issue/disagreement and forwards it to the relevant HR Manager (where applicable) who informs all parties concerned **within 3 (three) working days** of the meeting between the parties.

The Line Manager, with guidance from HR where relevant, is responsible for the implementation of the recommendations agreed to at the ADR meeting.

Step 4: Dispute (issue/disagreement) remains unresolved

If ADR is not successful the appropriate formal process shall be followed and the Line Manager, with guidance from HR, will inform the employee in writing, **within 3 (three) working days** of the meeting between the parties

ANNEXURE A: PROCESS FLOW FOR ALTERNATE DISPUTE RESOLUTION



ANNEXURE B**DISPUTE RESOLUTION REFERRAL FORM**

Please complete this form and e-mail it to the relevant College or Support Human Resources Manager on:

College of Law and Management Studies	sitholef@ukzn.ac.za	Ext: 8211
College of Humanities	kunenen7@ukzn.ac.za	Ext 2355
College of Health Sciences	lasich@ukzn.ac.za	Ext 8201
College of Agricultural Sciences and Agribusiness	balkisson@ukzn.ac.za	Ext 6229
Divisional Support Sector	gwambet@ukzn.ac.za	Ext 2229

1. DETAILS OF REFERRING PARTY		
Name		
College / Division		
Telephone	Ext	Cell
E-mail Address		
2. DETAILS OF THE OTHER PARTY / PARTIES		
Name		
College / Division	Ext	Cell
Telephone		
E-mail Address		

3. NATURE OF DISPUTE (provide sufficient details and attach any relevant documents)

3. OUTCOME REQUIRED

Do you consent to ADR processes (if they can be applied to this dispute)? YES / NO.

IF NO PLEASE PROVIDE REASONS:

SIGNATURE OF REFERRING PARTY	DATE

PART B: TO BE COMPLETED BY HR CONSULTANT: Complete part B and e-mail this form to HR/HRD

4. CONFLICT RESOLUTION PROCEEDINGS			
Date received		Date finalised	
Facilitator			
In attendance	Employer Representative(s)	Employee and Representatives	
Outcome reached			
Name of referring HR Manager /Consultant			
Date referred for ADR			

PART C: For HRD office use only

5. ALTERNATIVE RESOLUTION PROCEEDINGS

Date received		Referred by:	
Assessment Outcome			
Date of ADR meeting			ADR process followed:
Facilitator			
In attendance	Employer Representative(s)	Employee and Representatives	
Outcome reached			
Name of referring HR/HRD Manager			