ADR Institute of Canada
Institut d'arbitrage et de médiation du Canada TM/MC

CORPORATE / ORGANIZATIONAL SERVICES & ROSTERS

www.adric.ca

ARBITRATION. MEDIATION. RESOLUTION.

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ADRIC regularly assists organizations of all kinds to develop and administer ADR programs designed to resolve disputes between various parties. This may include disputes between private parties within a company, industry or disputes between organizations and their customers, clients, patients or employees.

Most organizations do not have the time, resources or know-how to recruit qualified ADR professionals, design efficient ADR systems, or administer cases effectively and efficiently. These organizations, nevertheless, wish to reap the rewards of ADR.

Having ADR available demonstrates a willingness to assist parties in resolving disputes and avoids the high costs of litigation and protracted conflict. ADR processes administered by a neutral organization such as ADRIC create the necessary distance between the ADR professionals and the party paying for ADR services. This distance ensures that there is neither bias nor the perception of bias.

By outsourcing mediation and arbitration systems and services to ADRIC, organizations obtain all the benefits of an ADR regime, without having to acquire the expertise necessary to design and implement a successful program.

BACKGROUND AND EXPERIENCE PROVIDING CORPORATE/ ORGANIZATIONAL SERVICES: AN ESTABLISHED TRACK RECORD OF EXCELLENCE

Ontario Ministry of Health and Long Term Care/ Ontario Association of Community Care Access Centres

Since 2006, ADRIO has worked with the Ontario Association of Community Care Access Centres, on behalf of the Ministry of Health and Long Term Care, to design and administer a system that would provide Independent Complaint Facilitators (ICFs) to assist in resolving complaints between Community Care Access Centres and their clients. ADRIO regularly appoints ICFs from a qualified and specially selected roster of its members and administers these cases.

Individual Referrals

ADRIC regularly refers lawyers and members of the public to ADR professionals. The public can also access ADR CONNECT, an electronic tool that allows anyone to select ADR professionals that meet their needs, available at www.adric.ca

Administration and Appointment under the ADRIC Arbitration Rules

In 2002, ADRIC developed and published the National Arbitration Rules and National Mediation Rules, available in both official languages. The Arbitration Rules were significantly enhanced in an update effective December 1st 2014.

ADRIC can appoint arbitrators and administer cases pursuant to these Rules for a fee.

Commercial contracts commonly contain ADRIC's model clause indicating that any dispute that arises with respect to the contract will be administered by ADRIC, pursuant to the Arbitration Rules. Parties can also agree to submit to the rules in the absence of a contractual term.

ETR 407

Since 2000, regional affiliate ADRIO has administered the resolution of disputes between drivers and Highway 407 over fees charged to highway users.

AMEX Bank of Canada

In 2006, AMEX selected ADRIC to appoint arbitrators to resolve complaints between it and its card members.
This program continues and is widely advertised to card members and is incorporated in the standard card member agreement.

KPMG

ADRIC provides KPMG with comprehensive services for the resolution of disputes involving employees and former employees who were part of a class action for overtime compensation. ADRIC has provided KPMG with arbitration and mediation rosters to service claims located across Canada and in both languages.

TO REAP THE REWARDS OF ADR THROUGH OUTSOURCING, THE FOLLOWING POINTS ARE WORTHY OF CAREFUL CONSIDERATION. ADRIC CAN ASSIST.

1. QUALIFICATIONS — It is a serious mistake to assume that common sense and "being good with people" are sufficient for effective mediation or facilitation, or that a lawyer without specific training in mediation or facilitation can mediate effectively. Legal skills are very different from the skills and training applied by a mediator or arbitrator or facilitator.

ADRIC offers four designations to ADR professionals signifying their high level of experience and skill. The C.Med (Chartered Mediator) and C.Arb (Chartered Arbitrator) designations are the most senior designations. The Q.Med (Qualified Mediator) and Q.Arb (Qualified Arbitrator) evidence achievement of significant education and experience. These are the only official generalist Canadian designations available to seasoned practitioners and demonstrate a high level of achievement.

To obtain a C.Med, a mediator must have over 180 hours of training. He or she must also have mediated a certain number of cases and must demonstrate considerable skill through interviews and role plays. To obtain the C.Arb an arbitrator must, similarly, demonstrate a high level of training and experience. The Canadian government, when sourcing mediators and arbitrators most often uses these designations as a standard.

Organizations often need assistance determining what level of experience is required in a particular context. ADRIC is available to provide guidance. When asked to develop a roster or to set up or administer an ADR system, ADRIC consults with highly-experienced mediators and arbitrators, from relevant backgrounds to determine the criteria, level of experience and training required in a particular situation. We also set up a committee to assist with the selection of roster members and the creation of a customized list.

2. COMPETENT NEUTRALS — It is important to assess what is at stake for the parties in order to select a facilitator, mediator or arbitrator with appropriate training and experience for that particular case. Both parties will want to know that their ADR professional is a skilled, trained individual who has been thoughtfully selected to ensure the best possible outcome with the least possible cost and stress to the parties.

3. HOW MUCH SHOULD YOU PAY THE ADR PROFESSIONAL? — Mediator and arbitrator fees are unregulated and range from $150 to $700 per hour. Many mediators and arbitrators will negotiate lower rates based on factors such as the status of the client, the volume of work, and anticipated future assignments.

4. WHERE SHOULD THE MEDIATION, FACILITATION OR ARBITRATION TAKE PLACE? — It is always better for the parties to meet face to face. Practical realities of time and distance may also determine the location and even whether or not sessions can be conducted over the telephone or, increasingly in arbitration, by videoconference and online.

Depending on the situation, considerations may include some or all of the following:

- **Who bears the costs of transportation and/or accommodation if one or both parties and/or witnesses or the ADR professional must travel?**
- **Do you appoint ADR professionals in different regions throughout Canada so individuals are serviced by local mediators and arbitrators?**
- **Is telephone, video-conference or on-line mediation, facilitation or arbitration feasible?**
- **Does the organization have offices/regional offices where a facilitation, mediation or arbitration could take place?**

5. INSURANCE — Our practicing designation holders providing services on rosters are required to carry a minimum of $1 million professional liability insurance.

6. PRIVATE AND CONFIDENTIAL — Most mediations are conducted on a "without prejudice" basis. This means that anything said in a mediation cannot be used in a subsequent or concurrent proceeding. This allows the parties to be more candid with one another and may facilitate settlement. Unless otherwise agreed, a mediator's notes are completely confidential. Arbitrations under the Rules are private and confidential.

7. EXPECTED VOLUME OF CASES — It is a challenge to set up a program without sufficient information as to the expected volume of cases. The number of cases can also be influenced by the degree of awareness complainants, clients, customers or members of the public have that there is a forum available for dispute resolution.

Advertising the availability of an organized ADR process and procedure demonstrates to the public, client, employee or customer that an organization is actively taking responsibility for the interests of its employees and market. A functioning complaint and facilitation system demonstrates the extent to which an organization cost-effectively accepts responsibility and accountability for the service it provides.

WHAT SERVICES CAN I OBTAIN FROM ADRIC?

OPTION 1: ADVERTISING TO ADRIC's MEMBERS

An organization can provide ADRIC with an advertisement inviting applicants to apply directly to their organization to be placed on a roster. ADRIC will email this ad to its members and affiliates, and/or post the opportunity on its website. ADRIC does not charge for advertising this opportunity to its approximately 2000 members across Canada or to specific regions.

OPTION 2: ADVERTISE FOR AND SELECT ROSTER MEMBERS

ADRIC will assist the organization:

- Determine criteria and qualifications required
- Conceptualize the basics of the system (for the purposes of the ad) so that roster candidates have sufficient information about the system to apply to the roster, e.g., where will the work take place, what facilities will be used and where, will travel time and expenses be covered, etc.
- Draft the ad
- By circulating the roster call to ADRIC members.

ADRIC's selection committee then screens the candidates with appropriate qualifications, (credentials, training, practice experience, etc) and selects the facilitators, mediators or arbitrators and provides names of roster members to the organization.

OPTION 3: SYSTEM DEVELOPMENT

In addition to the services under Option 2, ADRIC assists the organization to develop a system that the organization can then administer.

This would include everything from determining how, where and when sessions will take place, the process to be followed, how facilitators/mediators/arbitrators will be paid and at what rate, who will cover travel and facility expenses etc., training and orientation of facilitators, to setting up a complaints system.

OPTION 4: CASE ADMINISTRATION AND SYSTEM MAINTENANCE

Includes Option 2 and 3 services with the addition of case administration fees that include in-take/administration services, case referral services, case management and billing (the system). A fee for maintaining the system is billed annually.

Statistics on usage and closures can be provided as agreed. Periodic review of the system may be included.

The fees of individual ADR professionals are in addition to fees charged by ADRIC for the services outlined above.

If you are interested in further information on any of these options please contact:

Executive Director
416-487-4733
1-877-475-4353
executivedirector@adric.ca

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