DELRS 2024
Forging the DoD Workforce of the Future
Successful ADR at FLRA
Michael J Wolf, FLRA
Director, Collaboration & ADR Office (CADRO)
ULP Settlement Official, Office of ALJs
Lance R Dechant, DoD
HR Specialist (Labor Relations)
Defense Civilian Personnel Advisory Service (DCPAS)

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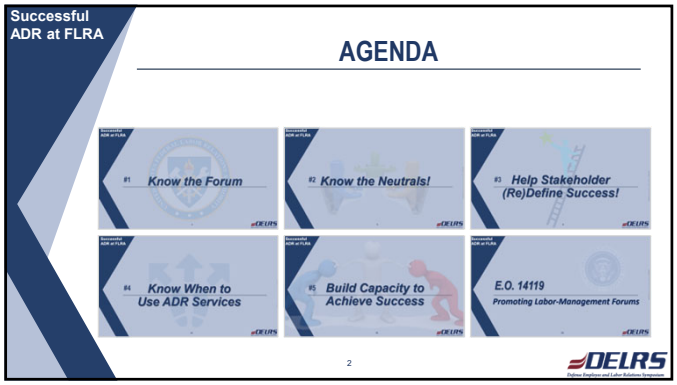
Successful ADR at FLRA
AGENDA
#1 Know the Forum
#2 Know the Neutrals!
#3 Help Stakeholder (Re)Define Success!
#4 Know When to Use ADR Services
#5 Build Capacity to Achieve Success
E.O. 14119
Promoting Labor-Management Forums
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Successful ADR at FLRA
#1 Know the Forum
UNITED STATES FEDERAL LABOR RELATIONS AUTHORITY
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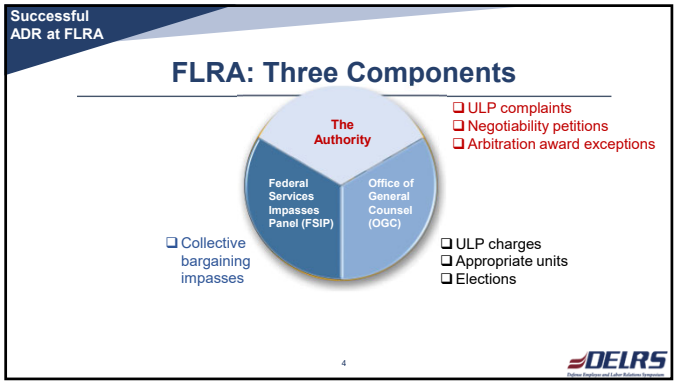
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FLRA: Three Components
The Authority
Federal Services Impasses Panel (FSIP)
Office of General Counsel (OGC)
❑ ULP complaints
❑ Negotiability petitions
❑ Arbitration award exceptions
❑ Collective bargaining impasses
❑ ULP charges
❑ Appropriate units
❑ Elections
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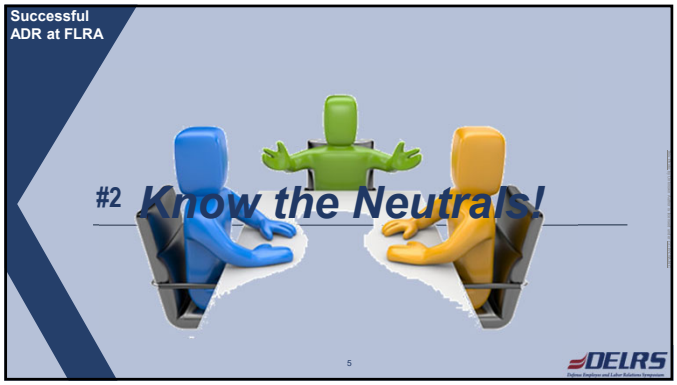
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#2 Know the Neutrals!
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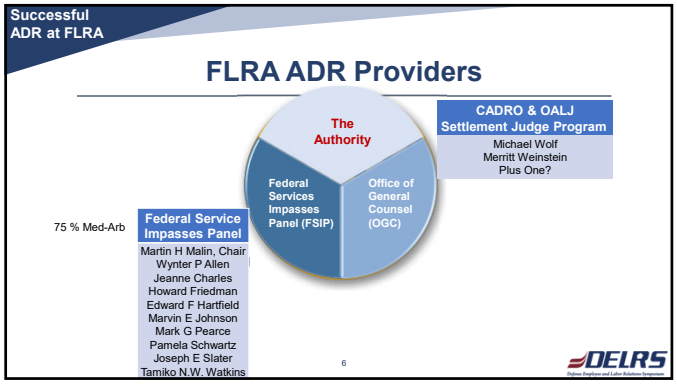
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FLRA ADR Providers
The Authority
Federal Services Impasses Panel (FSIP)
Office of General Counsel (OGC)
CADRO & OALJ Settlement Judge Program
Michael Wolf
Merritt Weinstein
Plus One?
75 % Med-Arb
Federal Service Impasses Panel
Martin H Malin, Chair
Wynter P Allen
Jeanne Charles
Howard Friedman
Edward F Hartfield
Marvin E Johnson
Mark G Pearce
Pamela Schwartz
Joseph E Slater
Tamiko N.W. Watkins
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Collaboration & ADR Office & OALJ Settlement Judge Program

CADRO Services

Negotiability Petitions
Arbitration Exceptions
OALJ Settlement Officials

L-M Partnership Forums
Collective Bargaining Disputes
Train, Facilitate, Repair

12-Month Snapshot (2 FTEs)

Negotiability Petitions
- 27/29 cases settled (93%)
- 319/324 proposals/provisions (98%)

Arbitration Exceptions
- 4 cases settled (100%)

Post-Complaint ULPs
- 125/132 cases settled (95%)

Other cases
- 9 Mediations
- 25 Train, facilitate, improve LMR

Currently Active
- 13 Negotiability & arbitration cases
- 18 ULP cases
- 07 Mediations, train, improve LMR

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(3-21-24 update)

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Other CADRO Services

Resolve Conflict

Prevent & Manage Conflict

- Consult, assess, guidance
- LMR Collaboration (LMF, LMPC, LMC)
- LMR facilitation
- LMR Repair
- LMR Training
  - Communication skills
  - Problem solving
  - Partnering, LMCs & Forums
  - Collective bargaining
  - DR system design
  - Custom workshops

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#3 *Help Stakeholder (Re)Define Success!*

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Success in ADR
MEANS SATISFYING AS MANY INTERESTS AS POSSIBLE!
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Positions
Interests
= Legitimate concern
= Why you care
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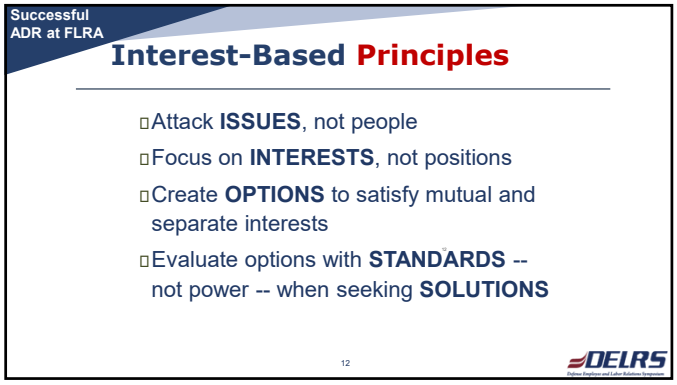
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Interest-Based Principles
Attack ISSUES, not people
Focus on INTERESTS, not positions
Create OPTIONS to satisfy mutual and separate interests
Evaluate options with STANDARDS -- not power -- when seeking SOLUTIONS
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Interest-Based Assumptions

- Bargaining can **ENHANCE** relationships
- Both parties must **BE SUCCESSFUL**
- Parties must **HELP** each other win
- **STANDARDS** must replace power when selecting solutions
- Parties must **SHARE** interest information

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When Should We Use ADR?

Achieve Goals

Control outcome
Transaction cost
Risk
Speed
Privacy
Compliance

Mission
Work life
LMR
Informal
Confront problem not people

Overcome Obstacles

Communication
Emotions
Stakeholders vs. representatives
Lack of knowledge
Lack of experience

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#5 Build Capacity to Achieve Success
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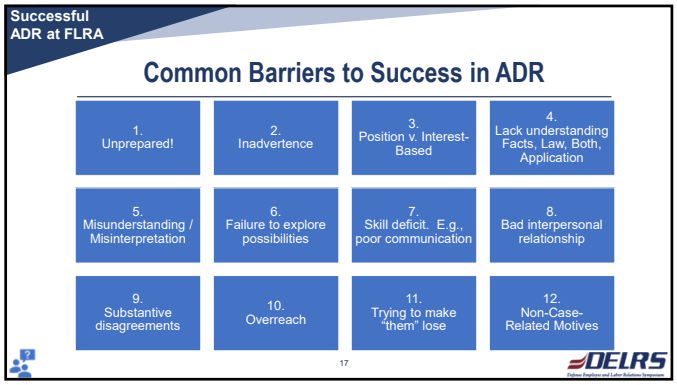
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Common Barriers to Success in ADR
1. Unprepared!
2. Inadvertence
3. Position v. Interest-Based
4. Lack understanding Facts, Law, Both, Application
5. Misunderstanding / Misinterpretation
6. Failure to explore possibilities
7. Skill deficit. E.g., poor communication
8. Bad interpersonal relationship
9. Substantive disagreements
10. Overreach
11. Trying to make "them" lose
12. Non-Case-Related Motives
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PREPARE
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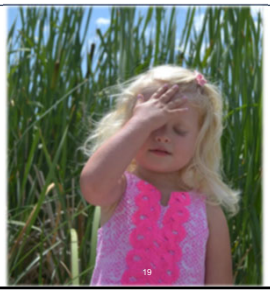
Inadvertence



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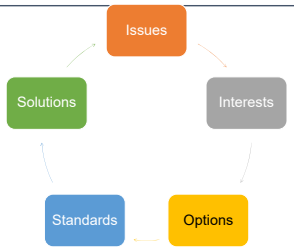
Interest-Based Problem Solving



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Lack Understanding

- ✓ Facts
- ✓ Law
- ✓ Both
- ✓ Application

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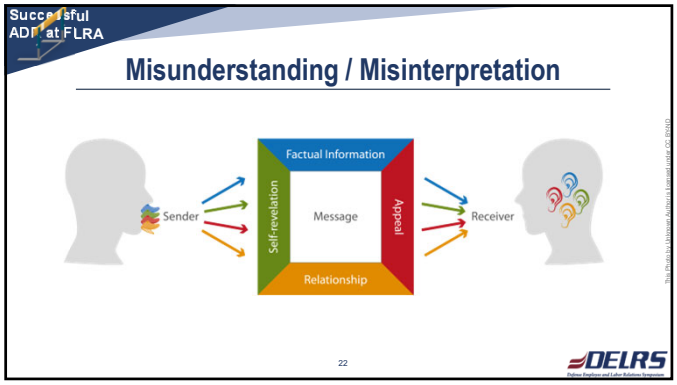
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Misunderstanding / Misinterpretation
Sender
Factual Information
Self-revelation
Message
Appeal
Relationship
Receiver
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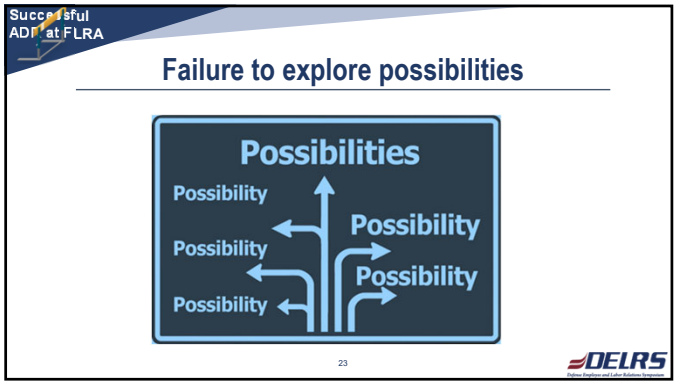
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Failure to explore possibilities
Possibilities
Possibility
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Possibility
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Possibility
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SKiLLS
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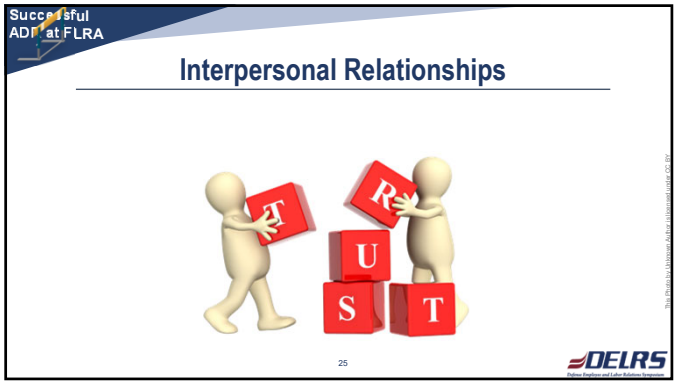
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Interpersonal Relationships
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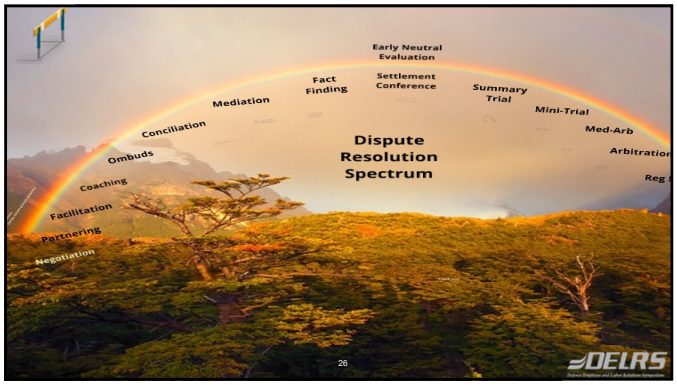
Early Neutral Evaluation
Fact Finding
Settlement Conference
Summary Trial
Mediation
Mini-Trial
Conciliation
Med-Arb
Ombuds
Dispute Resolution Spectrum
Arbitration
Coaching
Facilitation
Partnering
Negotiation
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Overreach; make "them" lose
You Lose
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Non-Case-Related Motives
Motive
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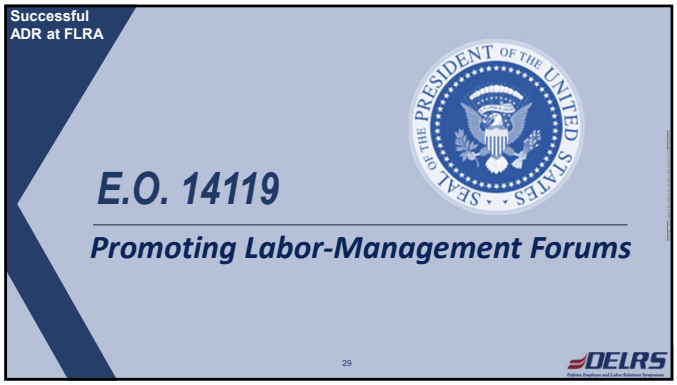
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Questions
Answers
IDEA
IDEA
IDEA
IDEA
IDEA
IDEA

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THANK YOU
FOR ATTENDING
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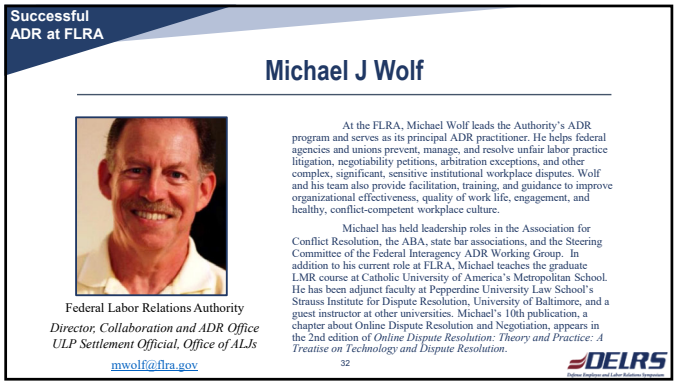
Successful
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Michael J Wolf
Federal Labor Relations Authority
Director, Collaboration and ADR Office
ULP Settlement Official, Office of ALJs
mwolf@flra.gov
At the FLRA, Michael Wolf leads the Authority's ADR program and serves as its principal ADR practitioner. He helps federal agencies and unions prevent, manage, and resolve unfair labor practice litigation, negotiability petitions, arbitration exceptions, and other complex, significant, sensitive institutional workplace disputes. Wolf and his team also provide facilitation, training, and guidance to improve organizational effectiveness, quality of work life, engagement, and healthy, conflict-competent workplace culture.
Michael has held leadership roles in the Association for Conflict Resolution, the ABA, state bar associations, and the Steering Committee of the Federal Interagency ADR Working Group. In addition to his current role at FLRA, Michael teaches the graduate LMR course at Catholic University of America's Metropolitan School. He has been adjunct faculty at Pepperdine University Law School's Strauss Institute for Dispute Resolution, University of Baltimore, and a guest instructor at other universities. Michael's 10th publication, a chapter about Online Dispute Resolution and Negotiation, appears in the 2nd edition of Online Dispute Resolution: Theory and Practice: A Treatise on Technology and Dispute Resolution.
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