

*Estimated Number of Respondents:*  
59,000.

Dated: July 17, 2002.

By direction of the Secretary.

**Genie McCully,**

*Acting Director, Information Management  
Service.*

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## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974; System of Records

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Establishment of New  
System of Records.

**SUMMARY:** The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled, "Alternative Dispute Resolution Tracking System-VA" (116VA09).

**DATES:** Comments on this new system of records must be received no later than August 29, 2002. If no public comment is received, the new system will become effective August 29, 2002.

**ADDRESSES:** You may mail or hand-deliver written comments concerning the proposed new system of records to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or fax comments to (202) 273-9289; or email comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). All relevant material received before August 29, 2002 will be considered. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Frederic Conway (09), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. (202) 273-6743.

#### SUPPLEMENTARY INFORMATION:

#### I. Description of Proposed Systems of Records

VA is committed to the appropriate use of alternative dispute resolution (ADR) for resolving conflicts and disputes. To monitor the use of ADR within VA, VA is creating an ADR tracking system. The proposed system

will capture information about the type and frequency of use of ADR within VA. It will track the number of times ADR is utilized, the types of disputes submitted to ADR, the length of time it took to use the ADR process, the outcome of the ADR and the degree of satisfaction of the users of ADR with the process. Collection and analysis of this data will enable VA to determine the effectiveness of the ADR program and identify areas for improvement.

VA will gather the information through a web-based tracking system. Individual ADR coordinators at the facility or regional level will enter data in the system. Regional levels are determined by the VA Staff Office or Administration involved. For example, the regional level in the Veterans Health Administration is the Veterans Integrated Service Network (VISN) level. ADR coordinators will have individually assigned unique passwords to enter and access data, and will only be able to access the data that they enter. This information may be maintained locally by the ADR coordinator and will be maintained nationally by the Dispute Resolution Specialist (09).

The Categories of Individuals Covered by the System may include the ADR Coordinators, the individuals who conduct the ADR process, e.g., mediators and arbitrators, the individuals who requested ADR, the respondents, and the representatives of the ADR requesters and respondents. ADR requesters are any individuals who may use the VA ADR process and who seek to use ADR as a method to resolve disputes. Examples of ADR requesters may include management officials, VA employees, contract employees, or individuals who have filed a tort claim under the Federal Tort Claims Act based upon a claim allegedly involving VA or its employees. Respondents may be any individuals who have been asked to participate in an ADR process, such as management officials, co-workers, or contracting officers.

The Categories of Records in the System may include such information as: the name, grade and step of the ADR requesters and respondents; the type of ADR requested, e.g., mediation or arbitration; the source of the individual(s) conducting the ADR, e.g., another Federal agency; the grades and steps of the individuals conducting the ADR process; administrative data on the particular ADR case, e.g., date requested; date concluded and total hours spent on the ADR; the nature of the dispute, e.g., discrimination or harassment; the stage in the dispute in which ADR is inserted, the

jurisdictional forum in which the dispute was located when ADR was requested, any waiver of rights under 29 CFR part 1614, the terms of any settlement agreement, e.g., damages, attorneys fees, reassignment, and the satisfaction of the parties with the ADR process.

The Department is gathering this information for the following purposes. VA will use the information to track and monitor agency dispute resolution activities at the local level. VA also intends to analyze the data to evaluate ADR utilization VA-wide, identify agency ADR best practices, and determine whether certain forms of ADR may be more appropriate in various types of cases.

VA's policies and practices for storing, retrieving, accessing, retaining and disposing of records will be as follows. VA will store the ADR tracking system on a server located in a [enter site location and operator]. Records are indexed and retrieved by the names or identification numbers of the ADR program participants, such as the ADR requestors respondents, and mediators. The safeguards for the data limit access to only those individuals who either administer the ADR tracking system or serve as ADR coordinators. VA will retain and dispose of these records in accordance with the applicable records control schedule approved by the Archivist of the United States.

#### II. Proposed Routine Use Disclosures of Data in the System

VA is proposing to establish the following Routine Use disclosures of information maintained in the system:

1. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before VA. The Member of Congress then writes VA, and VA must be able to give sufficient information to be responsive to the inquiry.

2. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of Title 44 U.S.C.

NARA is responsible for archiving old records no longer actively used, but which may be appropriate for preservation; they are responsible in general for the physical maintenance of the Federal Government's records. VA must be able to turn records over to NARA in order to determine the proper disposition of such records.

3. Records from this system of records may be disclosed to the Department of Justice (DOJ) or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear when: (1) The Agency, or any component thereof; (2) any employee of the Agency in his or her official capacity, where DOJ or the Agency has agreed to represent the employee; or (3) the United States, when the Agency determines that litigation is likely to affect the Agency or any of its components; is a party to litigation, and has an interest in such litigation, and the use of such records by DOJ or the Agency is deemed by the Agency to be relevant and necessary to the litigation, provided, however, that the disclosure is compatible with the purpose for which the records were collected.

Whenever VA is involved in litigation, or occasionally when another party is involved in litigation and VA policies or operations could be affected by the outcome of the litigation, VA would be able to disclose information to the court or parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by use of the information in the particular litigation is compatible with a purpose for which VA collects the information.

4. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

VA must be able to provide information to contractors or subcontractors with whom VA has a contract or agreement in order to perform the services of the contract or agreement.

5. VA may disclose on its own initiative any information in this system that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order.

VA must be able to comply with the requirements of agencies charged with enforcing the law and investigations of

violations or possible violations of law. VA must also be able to provide information to Federal, State, local, tribal and foreign agencies charged with protecting the public health as set forth in law.

6. Disclosure may be made to an appeal, grievance, hearing, or complaints examiner; an equal employment opportunity investigator, arbitrator, or mediator; and an exclusive representative or other person authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of the record.

Whenever VA is involved in an appeal, grievance, or complaint, or occasionally when another party is involved and VA policies or operations could be affected by the outcome, VA would be able to disclose information to the examiner or other official or parties involved. A determination would be made in each instance that, under the circumstances involved, the purpose served by use of the information is compatible with a purpose for which VA collects the information. The information may be needed by the examiner or investigator in order to resolve a grievance. Inability to release the data may have a negative impact on the individual filing the grievance.

7. Disclosure may be made to the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), and the General Accounting Office (GAO) in order for them to perform their responsibilities for evaluating Federal programs.

VA must be able to provide information to these agencies in order for them to carry out their responsibilities for evaluating Federal programs.

8. Information may be disclosed to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

VA must be able to disclose information to officials of labor organizations to assist them in fulfilling their responsibilities in representing employees. This routine use is intended to provide no greater authority to release records to officials of labor unions than provided under 5 U.S.C. 7114(b)(4).

9. Information may be disclosed to officials of the Merit Systems Protection Board or the Office of the Special Counsel when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of

alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

VA must be able to disclose information to these agencies to assist them in fulfilling their responsibilities.

10. Information may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law.

VA must be able to disclose information to the Commission in order for it to fulfill its responsibilities to protect employee rights.

11. Information may be disclosed to the Federal Labor Relations Authority (including its General Counsel) when appropriate jurisdiction has been established and the information has been requested in connection with the investigation and resolution of allegations of unfair labor practices or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; and to the Federal Service Impasses Panel in matters they are considering.

VA must be able to disclose information to these agencies in order for them to fulfill their responsibilities.

### **III. Compatibility of the Proposed Routine Uses**

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which we collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: July 15, 2002.

**Anthony J. Principi,**  
Secretary of Veterans Affairs.

# 116VA09

## SYSTEM NAME:

Alternative Dispute Resolution Tracking System-VA.

## SYSTEM LOCATION:

VA will store the ADR tracking system on a web development server located in Silver Spring, Maryland.

## CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning VA employees and other individuals who have participated in a VA alternative dispute resolution program.

## CATEGORIES OF RECORDS IN THE SYSTEM:

The records may contain information related to the name, grade and step of the ADR requesters and respondents; the type of ADR requested, e.g., mediation or arbitration; the type of ADR used; the source of the individual(s) conducting the ADR, e.g., another Federal agency; the grades and steps of the individuals conducting the ADR process; administrative data on the particular ADR case, e.g., date requested; date concluded and total hours spent on the ADR; the nature of the dispute, e.g., discrimination or harassment; the stage in the dispute in which ADR is inserted, the jurisdictional forum in which the dispute was located when ADR was requested, any waiver of rights under 29 CFR part 1614, the terms of any settlement agreement, e.g., damages, attorneys fees, reassignment, and the satisfaction of the parties with the ADR process, and, the source of the neutral third party who conducted the procedure, e.g., the facility's program, a local shared neutral's program, the national program, or a private, non governmental program.

## AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, sections 571-584; Federal Acquisition Regulation; Part 33, Protests, Disputes, and Appeals and/or VA Acquisition Regulation, Part 833, Protests, Disputes, and Appeals; and Title 29, Code of Federal Regulations, section 1614.

## PURPOSE(S):

VA will use the information to track and monitor agency dispute resolution activities at the local level. VA also intends to analyze the data to evaluate ADR utilization VA-wide, identify agency ADR best practices, and

determine whether certain forms of ADR may be more appropriate in various types of cases.

## ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

VA is proposing to establish the following routine use disclosures of the information that will be maintained in the system:

1. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of Title 44 U.S.C.

3. Records from this system of records may be disclosed to the Department of Justice (DOJ) or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear when: (1) The Agency, or any component thereof; (2) any employee of the Agency in his or her official capacity, where DOJ or the Agency has agreed to represent the employee; or (3) the United States, when the Agency determines that litigation is likely to affect the Agency or any of its components; is a party to litigation, and has an interest in such litigation, and the use of such records by DOJ or the Agency is deemed by the Agency to be relevant and necessary to the litigation, provided, however, that the disclosure is compatible with the purpose for which the records were collected.

4. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

5. VA may disclose on its own initiative any information in this system that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. VA must be able to comply with the requirements of

agencies charged with enforcing the law and investigations of violations or possible violations of law.

6. Disclosure may be made to an appeal, grievance, hearing, or complaints examiner; an equal employment opportunity investigator, arbitrator, or mediator; and an exclusive representative or other person authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of the record.

7. Disclosure may be made to the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), and the General Accounting Office (GAO) in order for them to perform their responsibilities for evaluating Federal programs.

8. Information may be disclosed to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

9. Information may be disclosed to officials of the Merit Systems Protection Board or the Office of the Special Counsel when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

10. Information may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law.

11. Information may be disclosed to the Federal Labor Relations Authority (including its General Counsel) when appropriate jurisdiction has been established and the information has been requested in connection with the investigation and resolution of allegations of unfair labor practices or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; and to the Federal Service Impasses Panel in matters they are considering.

## POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

### STORAGE:

Records are maintained on a web development server.

**RETRIEVABILITY:**

Records are retrieved by name or other assigned identifiers of the individuals who participate in the VA ADR process.

**SAFEGUARDS:**

1. Access to and use of these records is limited to those persons whose official duties require such access.
2. Access to the ADR tracking system is controlled by using an individually unique user identification code.
3. Access to the VA facility where the ADR tracking system is maintained is controlled at all hours by the Federal Protective Service, VA, or other security personnel and security access control devices.
4. Public use files prepared for purposes of research and analysis are purged of personal identifiers.

**RETENTION AND DISPOSAL:**

Records are maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

**SYSTEM MANAGER(S) AND ADDRESS:**

Official responsible for policies and procedures: Dispute Resolution Specialist (09), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

**NOTIFICATION PROCEDURE:**

Individuals who wish to determine whether this system of records contains information about them should address written inquiries to Dispute Resolution Specialist (09), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

**RECORD ACCESS PROCEDURE:**

Individuals seeking information regarding access to and contesting of records in this system may write Dispute Resolution Specialist (09), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

**CONTESTING RECORD PROCEDURES:**

(See Record Access Procedures above.)

**RECORD SOURCE CATEGORIES:**

Information in this system of records is provided by employees who serve as local ADR program coordinators who obtain information from the ADR program participants.

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