

“(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

“(b) REPRESENTATION AND ASSISTANCE BY NON-ATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

“(1) such claim or dispute concerns an administrative program identified under subsection (a);

“(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

“(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

“(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under subchapter IV of chapter 5 of title 5, United States Code, to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

“(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, as appropriate, to other persons who provide representation or assistance; and

“(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.”

DEFINITIONS

Pub. L. 101-552, §10, Nov. 15, 1990, 104 Stat. 2747, as amended by Pub. L. 102-354, §5(b)(6), Aug. 26, 1992, 106 Stat. 946, provided that: “As used in this Act [see Short Title note above], the terms ‘agency’, ‘administrative program’, and ‘alternative means of dispute resolution’ have the meanings given such terms in section 571 of title 5, United States Code (enacted as section 581 of title 5, United States Code, by section 4(b) of this Act, and redesignated as section 571 of such title by section 3(b) of the Administrative Procedure Technical Amendments Act of 1991 [Pub. L. 102-354]).”

§ 572. General authority

(a) An agency may use a dispute resolution proceeding for the resolution of an issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

(b) An agency shall consider not using a dispute resolution proceeding if—

(1) a definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

(5) a full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light

of changed circumstances, and a dispute resolution proceeding would interfere with the agency’s fulfilling that requirement.

(c) Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

(Added Pub. L. 101-552, §4(b), Nov. 15, 1990, 104 Stat. 2739, § 582; renumbered §572, Pub. L. 102-354, §3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

CODIFICATION

Section 572 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2257 of Title 7, Agriculture.

PRIOR PROVISIONS

A prior section 572 was renumbered section 592 of this title.

AMENDMENTS

1992—Pub. L. 102-354 renumbered section 582 of this title as this section.

§ 573. Neutrals

(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

(c) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of dispute resolution under this subchapter. Such agency or interagency committee, in consultation with other appropriate Federal agencies and professional organizations experienced in matters concerning dispute resolution, shall—

(1) encourage and facilitate agency use of alternative means of dispute resolution; and

(2) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

(d) An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

(e) Any agency may enter into a contract with any person for services as a neutral, or for training in connection with alternative means of dispute resolution. The parties in a dispute resolution proceeding shall agree on compensation for the neutral that is fair and reasonable to the Government.

(Added Pub. L. 101-552, §4(b), Nov. 15, 1990, 104 Stat. 2739, § 583; renumbered §573, Pub. L. 102-354, §3(b)(2), Aug. 26, 1992, 106 Stat. 944; amended Pub. L. 104-320, §7(b), Oct. 19, 1996, 110 Stat. 3872.)