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**Component Assessment: Alternative Dispute Resolution**

Key Elements

The responses in this assessment provide a snapshot of Alternative Dispute Resolution in your state. All responses are meant solely to inform assessment of this component.

Key elements of **Alternative Dispute Resolution** include:

* Provide plain language information by case type about Alternative Dispute Resolution modes and processes;
* Provide information about the impact of power imbalances on the success of resolutions through Alternative Dispute Resolution and strategies to address these concerns;
* Make available clear codes of ethics for the non-judicial neutrals;
* Ensure access to Alternative Dispute Resolution modes provided within procedural context, possibly through self-help; and
* Ensure ethically appropriate collaborations between access to justice stakeholders and Alternative Dispute Resolution providers.

Need

1. Is Alternative Dispute Resolution available in your state?

[ ]  Yes [ ]  No [ ]  Unsure

Additional information:

Remarks on strengths and gaps:

1. To what degree is Alternative Dispute Resolution available at the county level?

*Tips:* Suggested sources of information include reported service areas and program parameters.

[ ]  No counties [ ]  Few counties [ ]  Half of counties [ ]  Most counties [ ]  All counties

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. What is your best estimate of the demand for Alternative Dispute Resolution?

*Tips:* Suggested sources of information include judicial Alternative Dispute Resolution referrals and intake (through private bar, court), Alternative Dispute Resolution program/organization reporting.

Please provide a brief explanation of the calculation below under "Additional information".

Number:

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

Response

1. How much of the Alternative Dispute Resolution demand is met?

*Tips:* Suggested sources of information include Alternative Dispute Resolution court reporting and bar program/organization reporting.

Number or % of households/individuals receiving Alternative Dispute Resolution:

To calculate the percentage below =

Number or % of households/individuals receiving Alternative Dispute Resolution *divided by*

Number or % of households/with individuals in need of Alternative Dispute Resolution (question 3).

Please provide a brief explanation of your calculation below under “Additional information”.

Percentage:

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. What case types have Alternative Dispute Resolution available? (select all that apply)

*Tips:* Suggested sources of information are court statistics and caseloads, case types of reported programs and enabling rules and statutes. Please indicate any distinctions below under “Additional information”.

[ ]  Contract (includes landlord/tenant, debt collection & mortgage foreclosure)

[ ]  Small Claims

[ ]  Tort

[ ]  Probate

[ ]  Real Property

[ ]  Mental Health (includes civil commitment, guardianship)

[ ]  Family (includes divorce, protection orders)

[ ]  Other

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. At what stage in the case is help provided? (select all that apply)

*Tips:* Suggested sources of information include program descriptions and enabling rules/statutes.

[ ]  Pre-filing

[ ]  Post-filing, uncontested

[ ]  Post-filing, contested

[ ]  Through entry of judgment

[ ]  Post-judgement

[ ]  Appellate

[ ]  No case stage data is collected

[ ]  Other

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

Technology Integration

1. Is Alternative Dispute Resolution available remotely (via video or telephone)?

*Tips:* Suggested sources of information include court rules allowing remote appearances and Alternative Dispute Resolution program surveys and protocols. Please identify any barriers below under “Additional information”.

[ ]  No counties [ ]  Few counties [ ]  Half of counties [ ]  Most counties [ ]  All counties

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. Is technology being optimized (e.g., technology utilized to the extent possible where practicable and feasible)?

*Tips*: Suggested sources of information include opinion surveys from mediators, Alternative Dispute Resolution program administrators, private bar, court staff, judicial officers, user focus groups and interviews. States might also identify additional technology examples. Please discuss any limitations in broadband access and infrastructure challenges below under “Additional information”.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Never** | **Rarely** | **Sometimes** | **Often** | **Always** |
| ***Administration***  |  |  |  |  |  |
| Case management tools | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Litigation e-tools (discovery, filing) | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Work & data sharing tools | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Other:       | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| ***General Education/Information***  |  |  |  |  |  |
| Communication tools (email/text notices) | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Information-sharing tools (websites) | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Other:       | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| ***Service Delivery***  |  |  |  |  |  |
| Remote communication tools (videoconference) | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Case resolution tools (online dispute resolution) | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Other:       | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

Language

1. Are language access services and supports provided?

*Tips:* Respondent might replicate this question for “in court” and “out of court” or discuss any distinctions in the “Additional information” section below. Suggested sources for “in court” information include language access plan, policies and protocols around supports, language services available. “Out of court” include Alternative Dispute Resolution program policies and protocols, language services, state-level language coalitions/access to justice commissions. The Justice Index: Language Access Index might also inform responses to this question.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Services & Supports*** | **Never** | **Rarely** | **Sometimes** | **Often** | **Always** |
| Interpretation (in-person, certified) | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Translated materials (signage, orders, general information) | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Bilingual employee support | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Training | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Outreach | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Other:       | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. Does Alternative Dispute Resolution reflect plain language principles and practices?

*Tips:* Example: Communications are concise.

Visit [plainlanguage.gov](https://plainlanguage.gov/) for additional examples of plain language principles and practices.

Suggested sources for “in court” information may include policies and protocols around plain language and a survey on the existence and use of plain language tools and resources. “Out of court” may include law office policies and protocols, plain language services/tools/resources, survey on the existence and use of plain language tools and resources.

[ ]  Never [ ]  Rarely [ ]  Sometimes [ ]  Often [ ]  Always

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

Special Populations

1. Does Alternative Dispute Resolution comply with disability access requirements?

*Tips:* Respondent might replicate this question for “in court” and “out of court” or discuss any distinctions below under “Additional information”. Suggested sources for information include state accommodations compliance and rules, evaluations and reports on compliance. The Justice Index: Disability Access Index might also inform responses to this question.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Access Requirements*** | **Never** | **Rarely** | **Sometimes** | **Often** | **Always** |
| ADA[[1]](#footnote-1) Title 1: Employment | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| ADA Title 2: State and Local Government Services | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| ADA Title 3: Public Accommodations | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| ADA Title 4: Telecommunications | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| ADA Title 5: Miscellaneous | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Rehabilitation Act, Section 504 | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. Are safeguards in place for vulnerable populations? (For example, individuals with trauma, cognitive impairment, learning disabilities, homebound, etc.)

*Tips:* Suggested sources of information include opinion surveys from civil legal aid, pro bono coordinators, court and self-help center staff, user focus groups and interviews and community and social service provider interviews or focus groups.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Safeguard*** | **Never** | **Rarely** | **Sometimes** | **Often** | **Always** |
| Trauma-informed responses | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Accommodations for remote appearances | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Appropriate modalities to support user comprehension and participation | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Additional time for client review | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Confidentiality practices | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |
| Other:       | [ ]  | [ ]  | [ ]  | [ ]  | [ ]  |

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

Ecosystem Ties & Voice

1. Are principles of diversity, equity and inclusion being applied to content development and/or service delivery? (e.g., Do Alternative Dispute Resolution practices reflect cultural sensitivity? Is language gender-neutral? Is the impact of bias being considered?)

*Tips:* Suggested sources of information include opinion surveys from civil legal aid, pro bono coordinators, court and self-help center staff, user focus groups and interviews and community and social service provider interviews or focus groups. Respondents may discuss content development and service delivery separately.

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. What financing structures are in place to support Alternative Dispute Resolution? (select all that apply)

*Tips:* Suggested sources of information include interviews with court leadership and Alternative Dispute Resolution program/service leaders.

[ ]  Budget line items

[ ]  Fees

[ ]  Private funding

[ ]  Grants

[ ]  Endowment

[ ]  None

[ ]  Other

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. Is financing for Alternative Dispute Resolution sustainable (able to be maintained at a certain level)?

*Tips:* Suggested sources of information include interviews with court and Alternative Dispute Resolution program/service representatives.

[ ]  Yes [ ]  No [ ]  Unsure

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

1. How does the access to justice governance/leadership support Alternative Dispute Resolution? (select all that apply)

*Tips:* Suggested sources of information include opinion surveys from mediators, private bar, legal aid, court staff, judicial officers and Alternative Dispute Resolution program leaders; access to justice commission strategic plans.

[ ]  Promoting Alternative Dispute Resolution services

[ ]  Funding

[ ]  Marketing

[ ]  Support legal aid initiatives

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

Measurement

1. What data do you collect on Alternative Dispute Resolution? (select all that apply)

*Tips:* Suggested sources of information include Alternative Dispute Resolution program/service, bar association and court case management data.

[ ]  Number of mediators

[ ]  Number of referrals

[ ]  Cases with Alternative Dispute Resolution

[ ]  Alternative Dispute Resolution use by case type

[ ]  Alternative Dispute Resolution outcomes

[ ]  Case outcomes

[ ]  No data is collected

[ ]  Other (can add multiple options):

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

17.i. How is the data used to inform access to justice strategy/policy?

17.ii. Who sees the data?

1. Are there accepted practices around documenting Alternative Dispute Resolution?

*Tips:* Examples of accepted practices include uniform data definitions, collection techniques and collection frequency.

If yes, please explain practices below under “Additional information”.

[ ]  Yes [ ]  No [ ]  Unsure

Additional information (such as country/region distinctions):

Remarks on strengths and gaps:

Cumulative Component Assessment

Please score your overall progress on Alternative Dispute Resolution based on the compiled information and additional data used to inform this assessment. The scoring should use the following scale:

**None:** In this category, component key elements, content or services are not available; no data is being collected; there is no sustained funding and there are many gaps to providing this service or content.

**Minimal levels:** In this category, very little demand for component key elements, content, or services is estimated to be met, potentially only in a few counties. There may be only a few (1-2) case types or litigation stages in which component key elements, content, or services are available. The majority of responses focusing on technology, language supports, access requirements, and safeguards, are ‘Rarely’ with a few ‘Sometimes’ selections. There are limited examples of diversity, equity, and inclusion as well as weak, unsustainable financing structures and data collection practices.

**Partial:** In this category, it is estimated that between a quarter and half of the demand for component key elements, content, or services is estimated to be met. Component key elements, content or services may not be statewide and in less than half of all counties. There may be only three to four case types and few litigation stages in which component key elements, content or services are available. The majority of responses focusing on technology, language services, access requirements and safeguards are ‘Sometimes’ with a few ‘Rarely’ or ‘Often’ selections. Additionally, only a few examples of diversity, equity and inclusion are present. Financing structures are somewhat stable while data collection is sporadic and rarely informs strategy or policy.

**Sufficient:** In this category, it is estimated that more than half of the demand for component key elements, content or services is being met. The component key elements, content or services may exist statewide and if not statewide, in many of the counties. Component key elements, content or services are provided to most case types and at multiple stages in the case. The majority of responses focusing on technology, language supports, access requirements, and safeguards are ‘Often’ with a few ‘Always’ or ‘Sometimes’ selections. Additionally, there are more than 2-3 examples of diversity, equity, and inclusion present. Stable and sustainable financing structures are listed; data collection may be established and occurring but there is room for advancement in how it informs the design, delivery and sustainability of the component.

**Advanced:** In this category, greater than 75% of the demand for component key elements, content or services is being met. The component key elements, content or services are statewide and are provided to almost all cases and at every feasible stage in the case. The majority of responses focusing on technology, language services, access requirements and safeguards are ‘Always’ with a few ‘Often’ or ‘Sometimes’ selections. Additionally, there are numerous examples of diversity, equity, and inclusion. Financing structures are described as robust and sustainable. Data collection and sharing occur regularly to inform component design and delivery with strong feedback loops in place to guide future development.

*Overall progress on Alternative Dispute Resolution:*

[ ]  None [ ]  Minimal levels [ ]  Partial [ ]  Sufficient [ ]  Advanced

1. Americans with Disabilities Act. For more information on ADA access requirements see, <https://www.ada.gov/>. [↑](#footnote-ref-1)