

Options for Dealing with Disagreement with Your Employer

Various clauses available in our [Model Contract Provisions](#) are proactive means by which churches and musicians can attempt to resolve disputes arising in the course of employment. By specifying one or more of these methods of Alternative Dispute Resolution, both parties agree to settle their disputes outside of the legal system. Here is an overview of these methods.

Alternative Dispute Resolution (“ADR”) is any method employed by two opposing parties, such as employer and employee, for avoiding the lengthy and costly burden of a court trial. The three typical formats, in increasing formality, are negotiation, mediation and arbitration.

Negotiation is the agreement of two opposing parties to sit down and air their differences with a goal of reaching a resolution by both sides’ giving concessions. There is usually no outside moderator directing the process.

Mediation is slightly more formalized, with an impartial moderator leading the negotiations and conveying proposals and counter-proposals between parties in the hope of reaching mutual agreement.

Arbitration, both non-binding and binding, places the positions of each side before an arbitrator who will resolve the dispute. Non-binding arbitration is advisory and the outcome may be inconclusive; binding arbitration is a final determination and may be court-enforced.

These dispute-resolving arrangements are practical alternatives to legal action, but they are typically agreed to by both parties in advance, usually in the employment contract. Courts favor these processes over trials and sometimes will oversee them, but it is not easy to persuade churches to agree to participate, since most musicians are at-will employees who can be terminated for very little reason. Still, for a musician with a dispute over the meaning of a contract, they are often the preferred means for resolution when the church foresees a trial as the alternative.

Mediation and arbitration can be pursued through the [Federal Mediation and Conciliation Service](#), which is headquartered in Washington DC and maintains a list of mediators and arbitrators in all states. Other well-established agencies, such as the [American Arbitration Association](#), [JAMS](#) or [National Arbitration Forum](#), have offices in many major cities.

Another possible means to reconciliation is Mentoring of the employee by a more experienced member of the Guild. See the section on [Mentorship](#).