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English 301 99C: Technical Writing

1.3 Definitions Assignment, Final Draft

Dear Sherlock Homies,

I am writing this in order to complete the Unit 1 Week 3 Definition Assignment for our English 301 Technical Writing Class. This assignment aims to define a relatively complex term within my particular discipline or profession to a non-technical reader. I will complete this task by offering a parenthetical definition, a sentence definition, and an expanded definition of my chosen term. Through the completion of this task, I am expected to understand the importance of definitions and their role in technical writing and how to address various audience members by differentiating their levels of need under certain situations.

The situation and audience I have chosen for this assignment is a situation where a married couple have decided that they will be having a divorce. There was no prenuptial agreement between the couple and they must sort their assets. The education level of these people is at a high school level and they are not familiar with legal terminology. In cases such as this, Alternative Dispute Resolution is suggested before pursuing litigation in order to resolve the issue at hand before civil court claims. In order to explain the option of Alternative Dispute Resolution to the client, the lawyer must first properly define the methodology.

Alternative Dispute Resolution (ADR)

Parenthetical Definition

Alternative Dispute Resolution (resolving disputes without litigation) is commonly used due to it being more cost-effective than court fees and its expedited settlements.

Sentence Definition

Alternative Dispute Resolution is the approach to resolving a dispute outside of a courtroom through discussion between parties themselves or through a neutral third party. The common methodologies for ADR are negotiation, mediation, and arbitration.

Expanded Definition

Negation: What does it not mean?

Alternative Dispute Resolution means that conflict between parties will not be settled within a courtroom setting. It is without judicial interaction and is absent from a formal trial. In formal litigation, each party hires a

legal attorney to defend their case and prepare for a court trial. By presenting evidence, questioning witnesses, and preparing expert and personal testimonies, legal attorneys present a case in the best interest of their client. Most cases are settled pre-trial due to costly court fees, but the fees to even initiate litigation through investigation, assessment, and producing a legal motion is costly in itself.

Operating Principle: How does it work?

Alternative Dispute resolution works by allowing the conflicting parties to reach an agreement. Through ADR, parties can have a conversation about the conflict and may potentially reach an agreeable solution that satisfies everyone involved. In ADR, the parties may be given a mediator to advise them. The mediator must be neutral to both parties while also being sensitive to the case. ADR is best used in cases where there is a possibility of negotiation between both parties and when a trial seems inappropriate or unnecessary in regard to the facts and the objective of the case. Most Corporate and Civil cases utilize ADR. However, ADR is not recommended in cases where one party may fear violence from the other party or if there are significant differences in power of authority between both parties (i.e, employee vs. employer).

Analysis of Parts: What are its parts?

There are three main methodologies for ADR. These include:

Negotiation – Allowing the parties to discuss the problem and reach a mutual agreement. Legal professionals may be hired to assist with negotiating.

Mediation – A third party mediator is assigned to your case in order to settle a dispute with an impartial member who aims to reach the best-case solution for each party.

Arbitration – When negotiation and mediation are ruled unsuccessful, arbitration is the next step. It is an informal and short resolution that mimics a trial. Each party may choose legal representative to represent them, or they may represent themselves. A third representative is chosen by the legal representatives involved and all representatives review all facts and evidence of the case in order to reach a fair settlement. If this conclusion is not supported by either party, the case may be suggested for litigation.

Alternatively, if the above methods are not useful to the case, the following methodologies are also categorized under Alternative Dispute Resolutions. Although they are not commonly used, they are methods that can help resolve difficult cases using ADR.

Collaborative Law – Usually used in family and divorce law. Both parties hire a separate attorney to assist them with actively fixing the problem rather than winning the case. The rules of collaborative law are to agree to full disclosure of all documents relating to the case to the other party, safety for children that may be involved, and agreement to not take the case. In collaborative law, both parties must share experts that specialize in a variety of disciplines such as mental health, children going through divorces, and financial professionals.

Conciliation – A form of negotiation with the help of a conciliator, which is a neutral third party who is skilled at negotiation meets with conflicting parties separately and holds no legal standing. Through communication, the conciliator will work towards writing lists of objectives and acknowledgements each party wants. By sharing these objectives with the other party and allowing them to understand the conflicting party, the conciliator aims to build trust and minimize tension for each party.



Figure 1 A diagram of the five types of ADR with a short explanation of each type.

Source: Cheyne, Desmond. "Desmond Cheyne Infographics" *Pinterest*.

<https://www.pinterest.ca/pin/564427765774516461/>

Comparison and Contrast: How does it resemble or differ from something else?

Alternative Dispute Resolution and litigation are two different approaches that ultimately reach one goal; justice for a conflict. The following table will compare and contrast the pros and cons of these approaches.

Alternative Dispute Resolution	Litigation
<ul style="list-style-type: none">-Cost-efficient-Timely-Allows the people involved direct control over the situation-Promotes conversation and mutual agreement-Third party professionals remain neutral and unbiased-Only works for situations where parties have the capacity to resolve conflict on their own	<ul style="list-style-type: none">-Can be extremely costly-Can take months or years for a trial date-Judge is presented both sides of the case and will make a decision based on precedent cases and what they believe offers the most justice-Legal precedents are considered when making a judgement-Lawyers can be biased and skew emotions/judgement based on how they present their case

WORKS CITED

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