

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 1/25/2023

Staff Report No. 23-019

TO: AC Transit Board of Directors
FROM: Jill A. Sprague, General Counsel/Chief Legal Officer
SUBJECT: Alternative Dispute Resolution Program and Leave Management Committee

BRIEFING ITEM

AGENDA PLANNING REQUEST: ☒

RECOMMENDED ACTION(S):

Consider receiving an update on the District's Alternative Dispute Resolution (ADR) Program and Leave Management Committee [Requested by Director Walsh - 10/26/22].

Staff Contact:
Jill A. Sprague, General Counsel/Chief Legal Officer

STRATEGIC IMPORTANCE:

Goal - High-Performing Workforce
Initiative - Service Quality

Operator availability is a key concern with respect to providing reliable service and to restoring service. The ADR program and Leave Management Committee were created to address lengthy operator absences and to reduce Workers' Compensation litigation costs.

BUDGETARY/FISCAL IMPACT:

There is no budgetary or fiscal impact related to this report.

BACKGROUND/RATIONALE:

The Alternative Dispute Resolution Program (ADR) was implemented with Amalgamated Transit Union (ATU) on July 2, 2021, in an effort to informally resolve disputes regarding workers' compensation claims and treatment to avoid litigation and return ATU members to work more quickly.

Staff has 18 months of data for this program and preliminary results are positive. Specifically, the percentage of claims closed increased from 59.6% to 64.7% when comparing the 18 months prior to implementation of the ADR program to the 18 months following its implementation. This increase is even more significant in light of the fact that fewer claims were reported in the period before ADR (611) than the period after ADR (688). The District's percentage of litigated claims has also decreased from 18% to 12.6% following the implementation of ADR.

A review of the first year of the ADR program further demonstrates a decrease in average number of lost days for claims filed the year after ADR implementation compared to the year prior. Specifically, while more claims were filed in the year following implementation of ADR, the average length of absence decreased from 72 days to 61 days.

Staff expects to see a more significant impact on Workers Compensation claims after a full three years of the ADR program, because the average life cycle of a litigated workers' compensation claim is three years for lost time injury claims and longer for litigated lost time injury claims.

The Leave Management Committee (LMC) consists of stakeholders from HR Leave Management, Workers' Compensation, Compliance Drug & Alcohol unit, HR Labor Relations, and the Legal department. This group meets weekly to review the list of employees who are on extended leaves and to facilitate their return to work. In 2021, 400 employees on the LMC list returned to work.

In 2022, the LMC oversaw the return of 379 employees who were out on extended leave. In addition, LMC follow-up resulted in 16 long term leave employees retiring and 3 resigning their employment. The LMC continues to meet each week to review the status of each employee on leave and to identify ways to proactively manage those leaves and communicate with our employees regarding their return to work.

ADVANTAGES/DISADVANTAGES:

There are no advantages or disadvantages to receiving this report.

ALTERNATIVES ANALYSIS:

No alternatives to this report were considered.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Staff Report 21-506

ATTACHMENTS:

None.

Prepared by:

Jill A. Sprague, General Counsel

In Collaboration with:

Lewis Lawrence, Workers Compensation Manager

James Arcellana, Senior Attorney

Approved/Reviewed by:

Sebron Flenaugh III, Executive Director of Human Resources

Michael A. Hursh, General Manager/Chief Executive Officer