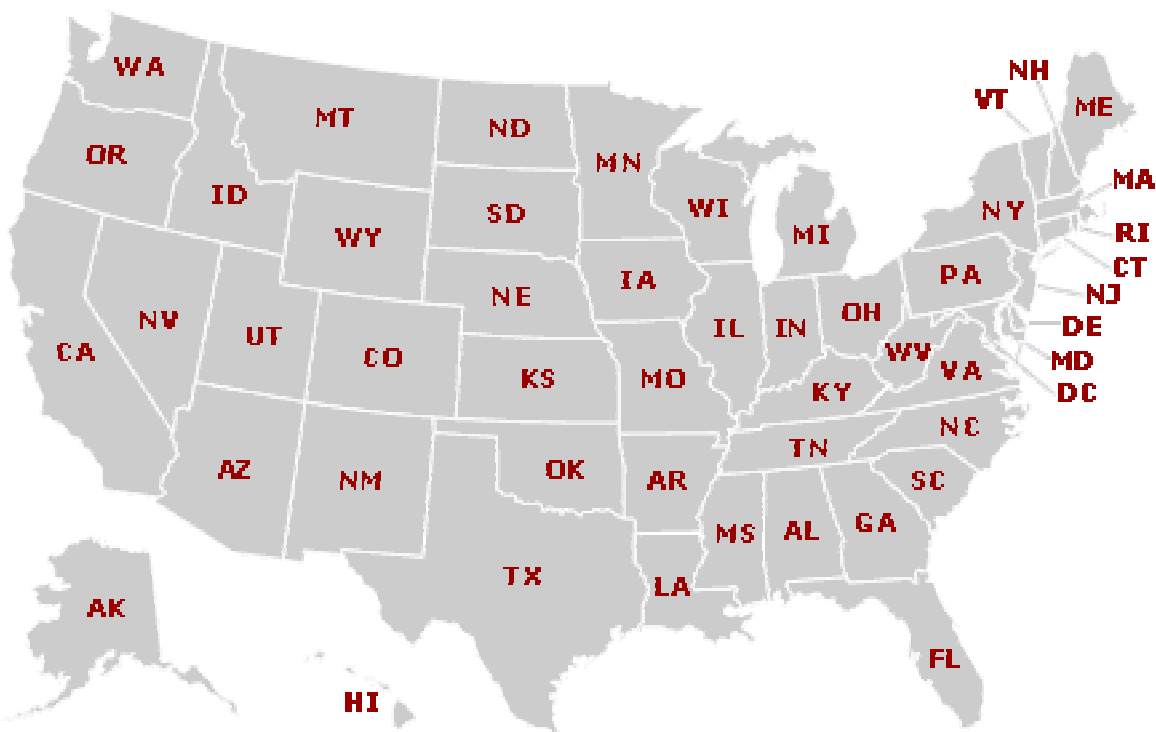




# 2003 State Dispute Resolution Programs Updates



## Achievements of the past year

**New DR policies or practices in place today that were not in place in 1999 / 2000**

**How DR organizations roles have evolved or changed over the past 3-4 years**

## ALABAMA

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### Alabama Center for Dispute Resolution

Judith M. Keegan, Esq., Executive Director

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www.alabamaADR.org

### Achievements of the past year

- Development of an appellate mediation program for both the Alabama Supreme Court and the Alabama Court of Civil Appeals which begin this fall.
- Governor Riley's Executive Order 7, expanding state agency ADR and requiring that each agency appoint an ADR coordinator.
- Joint memo of AG and governor to chief counsel of all Alabama agencies instructing them to include a mediation clause in state contracts.

### New DR policies or practices in place today that were not in place in 1999 / 2000

- Arbitrator standards for individuals wanting to be listed on the State Arbitrator Roster. Working on code of ethics.
- Arbitration course design. First training to be implemented in May 2004.
- A State Agency ADR Support Group to which state agencies appoint an ADR coordinator.
- Mediation clauses in state contracts.
- Employment mediation for state agencies.
- Victim-offender, restorative justice model program.
- AG opinion that mediation for state agencies is a good thing.
- Two counties with the backing of their judges were able to go to the legislature and actually pass a bill for that local county to have increased filing fees in order to supplement payment to divorce mediators.
- Offering training to state employees in negotiation, collaboration and mediation.

### How our DR organization's role evolved or changed over the past 3-4 years

- Lots more work! Additional court work, greatly expanded state agency work, additional Bar Association work including expanded web site, more collaboration with Ag's office and governor's office, additional work with law schools and public schools.

## ALASKA

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### Alaska Court System

Child in Need of Aid Mediation (CINA) and Family Group Conferencing (FGC) Program  
 Alaska Court System Child Custody and Visitation Mediation Program  
 Alaska Court System Appellate Settlement Program

Karen Largent, Dispute Resolution Coordinator

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<http://www.state.ak.us/courts/>

### Achievements of the past year

- Increased appreciation of and use of alternative dispute resolution models in the court system
- Integration of mediation into the Child in Need of Aid (child protection-CINA) system.

### New DR policies or practices in place today that were not in place in 1999 / 2000

- See above; these models have been very beneficial for our state.

### How our DR organization's role evolved or changed over the past 3-4 years

- The position of Dispute Resolution Coordinator was created in mid-999. Child custody mediation was new (about 2 years old), and we just initiated our CINA Mediation and FGC Program in Jan. 2001. We have evolved from infants to young adults!

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## Resource Solutions

### Environment and Natural Resources Institute

#### University of Alaska Anchorage

Margaret (Meg) King, Program Manager

[anmjk@uaa.alaska.edu](mailto:anmjk@uaa.alaska.edu)

[www.uaa.alaska.edu/enri/rs\\_site/rs1.html](http://www.uaa.alaska.edu/enri/rs_site/rs1.html)

### Achievements of the past year

- Gained funding to develop the Natural Resources Leadership Institute (NRLI) in Alaska.
- Implemented our first annual public lecture and workshop series, which included Dr. Frank Dukes from the University of Virginia. This year will likely include Dr. Barbara Gray from Penn State.
- Increased dialogue and interactions from and with public officials.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Alaska's negotiated rulemaking statute was originally passed in 1998, and the 2003 Legislature removed the sunset provision. Formal negotiated rulemaking has only been used a few times, most notably on the precedent setting regulations for waste water discharge and monitoring for cruise ships. Interest by state agencies for negotiated rulemaking is increasing.
- The Alaska Court System initiated two mediation programs, one for child protection cases when a child has been taken from their home by the state, and all issues can be mediated up to and including parental rights. A second mediation program on domestic relations has also been established, and both of these programs are being accepted as effective ways to process cases.
- The Alaska Supreme Court initiated an appellate settlement program, which required a rule change. A retired trial court judge has been hired to review cases at filing and determine whether or not they will be referred to a settlement conference.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- We have a more programmatic approach, in particular developing customized and unique training and skill-building opportunities, such as the NRLI and the public lecture and workshop series.
- Continue to expand our efforts to those in rural Alaska by providing consultations, trainings, facilitation and process design services.
- Partnering with other organizations and service providers to respond to RFPs and deliver services.

## **ARKANSAS**

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### **Arkansas Alternative Dispute Resolution Commission**

Jennifer Jones Taylor

Jennifer.Taylor@mail.state.ar.us

<http://courts.state.ar.us/courts/adr.html>

### **Achievements of the past year**

- The passage of legislation authorizing circuit court judges to order mediation in all types of cases except criminal cases;
- The implementation of mediator certification; and
- A series of high quality education programs were offered to train both new mediators and mediators with advanced skills

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Court ordered mediation is a more common practice than just a few years ago. Circuit court judges statewide are commonly ordering divorce cases to mediation, and with the new legislation have already begun regularly ordering other types of cases to mediation. Overall

the judges and lawyers are far more familiar and comfortable with the mediation process. This evolution in practice has been a change for the better.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- The Commission's role has evolved from that of educator to that of regulator. Prior to the implementation of mediator certification, the Commission's primary focus was on providing education on the advantages and applications of mediation and other forms of ADR. While that type of education is still important, with certification the focus has shifted to the professional conduct, discipline and training of mediators who serve circuit courts. Additionally, much more attention has been devoted to mediation program design and implementation for the courts, state agencies and non-profits.

## **COLORADO**

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### **Office of Dispute Resolution**

#### **Colorado Judicial Branch**

Cynthia A. Savage, Director

Cynthia.savage@judicial.state.co.us

<http://www.courts.state.co.us/chs/court/mediation/odrindex.htm>

#### **Achievements of the past year**

- Development of pilot programs to explore new uses for ADR services: One Day Jury Trial for civil cases; Early Case Evaluation for felony cases; pilot in development for use of mediation and family group conferencing in truancy cases
- Completion of research by Dr. Nancy Thoennes which found evidence of savings of court resources in Colorado's Tenth Judicial District early mediation program for dissolution of marriage cases.
- New programs under the Access and Visitation Grant: training for special advocates, supervised parenting providers conference, proposed collaboration with child support enforcement offices to develop programs making mediation available for their clients.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- In the courts, there is increasing use of case management prior to requiring ADR, and increasing requirement of ADR if case management does not result in resolution of the case. For the most part, I see this as a good change, as mandatory ADR tends to be over-inclusive and case management has the potential to more effectively address the needs of individual cases.
- More cases are referred to ADR by the courts than were 3 – 4 years ago, and ODR's caseload has increased over the last 3 – 4 years. There are policies in development regarding unauthorized practice of law issues. ODR is also in the process of a major revision of its policies and procedures manual, which applies only to ODR programs and not to private mediators. These are all good developments, and will address issues that have been around for some time.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- ODR's role continues to evolve, without dramatic changes in the past 3 – 4 years. ODR has become a major provider of indigent mediation and parenting coordination services for parties with parenting issues, thanks to the federal Access and Visitation Grant program. ODR has also become one of the leaders in advancing community mediation in the state. In addition, ODR has taken the lead in addressing issues related to conflict in family cases (also thanks to the Access and Visitation Grant), other than the provision of direct dispute resolution services. Such efforts include the Achievements mentioned above under the Access and Visitation Grant, as well as grant-funded efforts to provide parenting education services to unserved and underserved areas of the state. ODR is also playing a larger training role than it had 3 – 4 years ago. Finally, ODR has continued to take the lead in developing projects piloting the use of ADR in new areas.

## **FLORIDA**

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### **Florida Conflict Resolution Consortium**

Bob Jones, Director  
 flacrc@mailier.fsu.edu  
<http://consensus.fsu.edu>

### **Achievements of the past year**

- We received hundreds of letters, emails and calls of support for our program that did not change the University's decision to eliminate our state funding. We continue to operate with income from contracts and grants.
- We continued to expand our work with local governments, including facilitating FL City-County Managers Association Seminars, presenting at League of Cities workshops and completing a number of local projects.
- The FL Department of Agriculture and Consumer Services has used the Consortium for several negotiated rule makings, we have continued to facilitate policy groups for the Department of Transportation and are helping the FL Human Relations Commissions and Department of Environmental Protection develop leadership skills and manuals for community action.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- The Dept. of Environmental Protection has established a free mediation program for enforcement cases under \$10,000.
- The Governor issued an Executive Order directing agencies to do conflict resolution assessments and plans.
- Agencies are making selective use of ADR for rule making, reducing litigation and building consensus on critical policies projects. The budget cuts both limit funds to support ADR and increase the need to find ways to solve problems with fewer resources.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- The Consortium successes and outreach have continued to build a culture in the state that more and more considers the use of collaboration and the use of the Consortium. There are also those who profit off of adversity and who feel they have the power act without the inclusion of others, who counter our efforts. Our big change is the loss of state funding (about 1/2 of our budget). This will force us to be entrepreneurial and will mean that we will have to curtail doing projects and activities for low or no cost.

### **Florida Dispute Resolution Center**

Sharon Press

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www.flcourts.org

### **Achievements of the past year**

- Inclusion of mediation and arbitration in implementation language for constitutional amendment on state funding of state court system
- Implementation of new mediator certification data base
- Work begun on re-conceptualizing qualifications for mediator certification

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Reports on "performance measures" are now requested by the legislature as part of the budgeting process. The performance measure for the DRC (state office) is "# of mediator certified and renewed." While this is an easy objective measure to report, it is not indicative of the work of the DRC since we can't effect the number of people who certify or renew.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- Given the experience we had in 2002 when we faced potential elimination, our profile has increased. There appears to be greater knowledge about the Center and its work, and the role of ADR (mediation in particular) for the state court system.

## **HAWAII**

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### **Hawaii State Judiciary's Center for Alternative Dispute Resolution (Center)**

Elizabeth Kent

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www.courts.state.hi.us/cadr

### **Achievements of the past year**

- Despite the economy, the Center has not had a reduction in programs and services (community mediation programs available to the public, training and education for state and

county employees, facilitation and mediation for cases that affect the public policy, and ADR program design for state and county government). In addition, we were able to accomplish the following:

- Received funds to retain a contractor so that we can “market” mediation in the most effective manner possible, in effect, a “brand”
- Implemented a mediation program in the district court for temporary restraining order cases (especially directed at cases involving school children and neighbors)
- In collaboration with other ADR organizations, we hosted more free, public forums on emerging issues in ADR, and reached a wider audience, than in previous years

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- All of the law or rule changes noted below are excellent, or have positive aspects:
  - Chapter 91, Hawaii Revised Statutes (2003) – Administrative agencies that conduct contested case hearings under the Hawaii Administrative Procedures Act have the authority to encourage parties to participate in mediation prior to hearings
  - Hawaii federal district court adopted ADR rules (2002)
  - Section 587 – 26 (c)(1), Hawaii Revised Statutes (2002) – Service plans under the child protective act should include consideration given to the use of *ohana* (the Hawaiian word for family) conferences for family decision making
  - Chapter 658A, Hawaii Revised Statutes (2002) -- Revised Uniform Arbitration Act
  - \$25,000 increase in the Judiciary’s purchase of services contract with the community mediation centers (2001)
  - Sections 514A – 121.5, Hawaii Revised Statutes (2001) -- If an apartment owner or board of directors requests mediation of a dispute involving the interpretation or enforcement of certain issues, the other party is required to participate; each party is responsible for its own costs, unless otherwise agreed; if an owner or the board refuses to participate in the mediation, then a court may take that into consideration when awarding expenses
  - Rule 10, Hawaii Appellate Conference Program Rules (2000) – The program administrator or the Director of the Center for Alternative Dispute Resolution may impose sanctions for non-compliance with program rules or undue interference with program procedures
  - Rule 53.1, Hawaii Family Court Rules (1999) -- The court, in its discretion or upon motion of a party, may order parties to participate in an ADR process
  - Rule 12.2, Rules of the District Courts (1999) --The court, in its discretion or upon motion of a party, may order parties to participate in an ADR process
- Importantly, as a policy matter, the Center focused its training efforts on teaching state and county employees the basics of facilitation and communication. We had numerous training sessions in “Facilitation 101” in the past three years and formed a facilitation and recorder pool.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- The Center’s focus is to assist government agencies and departments to resolve disputes in the most efficient way possible to provide the people of Hawaii with opportunities for early, party-driven, efficient, and fair resolution of individual conflicts. Our primary means of

meeting that focus for the past six years has been through program design (implementing programs in state and county government departments and agencies) and providing training for government employees.

- Our role evolved in the past years, in two ways. First, our concentration is on social issues (for instance, health, human services, and public safety). Second, we refined our training methods and service delivery.

## ILLINOIS

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### Dispute Resolution Systems (CAADRS)

Jennifer Shack

[jshack@caadrs.org](mailto:jshack@caadrs.org)

[www.caadrs.org](http://www.caadrs.org)

#### Achievements of the past year

- Provided assistance to the Western Division of the U. S. District Court for the Northern District of Illinois in their creation and implementation of a mediation program.
- Published annotated bibliography of studies of court-related mediation programs. (See <http://www.caadrs.org/studies/MedStudyBiblio.htm>)
- Provided assistance to the Second Judicial Circuit in their creation of a program for judicial mediation of contested custody and visitation matters.

#### New DR policies or practices in place today that were not in place in 1999 / 2000

- The two biggest developments are (1) the Governor signed the Uniform Mediation Act in the summer of 2003 and (2) the Illinois Supreme Court implemented a statewide rule for approving court-related ADR programs in spring of 2001. With more than two years of experience under the statewide rule, we can see that it has generated some increased interest in ADR and some increased uniformity among judicial circuits. The UMA will become law on January 1, 2004, so it remains to be seen what impact it will have on court-related ADR.

#### How our DR organization's role evolved or changed over the past 3-4 years

- We have seen significant increase in interest in court-related ADR in Illinois. We have somewhat less of a need to promote our services, and are finding that there are increasing amounts and variety of work to be done – from assisting courts to develop programs to creating monitoring and evaluation systems to track their progress.

## INDIANA

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### Indiana University School of Law- Indianapolis Indiana Commission on Intergovernmental Relations Indiana Conflict Resolution Institute

John L. Krauss, Director, Indiana Advisory Commission on Intergovernmental Relations

Jkrauss@iupui.edu

[http://indylaw.indiana.edu/programs/law\\_state\\_gov/mediation.htm](http://indylaw.indiana.edu/programs/law_state_gov/mediation.htm)

<http://iacir.spea.iupui.edu/>

<http://www.spea.indiana.edu/icri/>

#### Achievements of the past year

- We train state and local lawyers and public administration practitioners in public policy mediation skills. Attorneys are certified as mediators under Indiana Supreme Court Rules. The course is given twice a year at the IU School of Law – Indianapolis and is co-sponsored by the Indiana Municipal Lawyers Association.

#### New DR policies or practices in place today that were not in place in 1999 / 2000

- There is a growing interest in applying ADR techniques to public policy disputes. The Indiana Attorney General is exploring several programs. The IU Law School wishes to expand its efforts, in cooperation with the Indiana Conflict Resolution Institute, in public policy ADR work.

#### How our DR organization's role evolved or changed over the past 3-4 years

- State of Indiana has developed an informal “shared neutrals” program. Administrative Law Judges serving state agencies volunteer to mediate public policy disputes in other state departments. The Attorney General’s interest is the first efforts from a key elected official.

## IOWA

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### Iowa Mediation Service, Inc.

Mike Thompson

[lamed8@netins.net](mailto:lamed8@netins.net)

[www.iowamediationservice.com](http://www.iowamediationservice.com)

#### Achievements of the past year

- Maintenance of USDA contract and expansion of the USDA cases to other divisions within the Department – rural housing, NRCS, and civil rights

- Development of DR training programs for handling harassment cases which has evolved into mediation of business disputes
- Selected as provider of services for state university – DR and DR training

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- On a regional basis the courts are using mediation in new areas – juvenile court permanency cases.

#### **How our DR organization's role evolved or changed over the past 3-4 years**

- The program has become more efficient at marketing our products. While the program started with farm mediation it has evolved into numerous level of ag and rural dispute resolution. Increasingly program staff are being asked to provide a broad range of DR services – technical assistance, training, mediation, facilitation, and arbitration. Also the organization is realizing its potential for development of mediators. Finally, we are building broad community base for DR – not just community based programs but community based approaches to resolving complex issues.

## **KANSAS**

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### **The Kansas Office of Judicial Administration**

Art Thompson, Dispute Resolution Coordinator  
 thompsona@kscourts.org  
 www.kscourts.org/adr

#### **Achievements of the past year**

- Developed a manual for Kansas courts on the various types of dispute resolution methods authorized by statute or court rule.
- Developed an experimental/control evaluation of the use of permanency mediation in child in need of care cases.
- Initiated an intrastate list serve with approved Kansas mediators to share experiences, training opportunities and program reports.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- There has been a 30% increase in the use of mediation in civil, non-domestic, cases in the last year. This is partially due to a statute in 2000 which allows judges to order dispute resolution in any civil case for which they believe it is appropriate.
- There has been an increase in the use of “case management” in high conflict domestic cases. Case management is allowed by K.S.A. 23-1001 to authorize a neutral person to be appointed by the court to make certain types of decision in an ongoing case. There are indications that this may continue to increase in use. Several courts also appoint “conciliators” who try to mediate a domestic case but, if unsuccessful, will report to the judge their recommendations. In a growing number of courts, conciliators are replacing mediators.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- There are more cases going through dispute resolution methods. We reported 3,693 cases in 1988 and 8,253 in 2002. Most courts are using dispute resolution more but a few less. Some courts report that with mandatory parenting time mediation, the number of mediations has declined because lawyers are settling more disputes that use to go to mediation. State government is becoming more interested in the use of various forms of dispute resolution and has ordered it in several types of state government related disputes. There is also a growing interest within the local government sector and in the business community. Financial problems continue to be a major restraint.

## **MAINE**

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### **Office of Court ADR**

#### **Maine Administrative Office of the Courts**

Diane E. Kenty, Director of Court ADR

diane.kenty@maine.gov

[www.courts.state.me/courtservices/adr/index.html](http://www.courts.state.me/courtservices/adr/index.html)

### **Achievements of the past year**

- Continuing to implement the new statewide Superior Court ADR program, as established in 2002 pursuant to Rule 16B of the Maine Rules of Civil Procedure; expanding the use of ADR in the courts, despite the state's budgetary situation; and maintaining the office without an assistant due to the current hiring freeze in the Maine Judicial Branch

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Rule 16B created a statewide "presumptive" ADR program for most types of civil cases in Superior Court, Maine's trial court of general jurisdiction. Parties are required to choose whether to participate in mediation, arbitration or early neutral evaluation, and they select the neutral. They also negotiate the fee, since there is no set fee for these ADR services. This has resulted in the increased use of ADR and an increase in the number of neutrals in the state.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- In Maine, mediation has taken place through the courts for 25 years. Historically, mediation occurred primarily in domestic relations and small claims cases, however. Now the Office of Court ADR also maintains rosters and oversees ADR in commercial, civil cases to a much greater extent.

## MARYLAND

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### Maryland Mediation and Conflict Resolution Office

Rachel A. Wohl, Executive Director

rachel.wohl@courts.state.md.us

www.courts.state.md.us/macro

#### Achievements of the past year

- MACRO provides guidance, technical assistance and support to help develop and expand conflict resolution programs throughout Maryland. In fiscal year 2003, MACRO's provided more than \$1.3 million in grant funds to supported over 70 innovative conflict resolution projects statewide and leveraged more than \$500,000 in matching funds from other sources, as well as countless volunteer hours for conflict resolution programs around the state. These projects are operating in courts, communities, schools, criminal and juvenile justice programs, state and local government agencies, and family services programs.
- MACRO is completing three statewide collaborative projects that are working to develop (1) a mediator excellence program (MACRO sponsored a Future Search in July '03 to begin the implementation phase of this project), (2) an evaluation system for all court ADR programs, and (3) an evaluation system for all community mediation centers. Due to these efforts, mediator quality assurance and program evaluation will remain high priorities for MACRO over the next several years.
- MACRO is an important conflict resolution information source for the public. To help the public keep up with the growth of mediation programs statewide, MACRO, in cooperation with the Maryland Legal Services Corporation, has just released a new "Consumers' Guide to Mediation Services in Maryland." The Guide lists the specific mediation programs operating in each county, both within and outside of the courts. MACRO also operates an e-mail listserv to keep the ADR practitioner community abreast of its work as well as to announce job opportunities, training opportunities, conferences, and other events that help to advance the dispute resolution field in Maryland. MACRO, in partnership with the Center for Dispute Resolution at the University of Maryland, will soon launch the Maryland's first ever searchable, statewide, online directory of mediators.

#### New DR policies or practices in place today that were not in place in 1999 / 2000

- Courts and government agencies are increasingly embracing ADR and are turning to MACRO for support and assistance.
- Within the past few years, civil mediation programs have proliferated in circuit courts (trial courts of unlimited jurisdiction) across Maryland; all circuit courts have child access mediation programs, dependency mediation programs are being spread to several circuit courts, day-of-trial mediation and settlement programs have been created for small claims cases in Maryland's District Court (limited jurisdiction trial court), and the district court is referring cases to community mediation centers, and a probate mediation pilot program is starting in the Orphans' Court.
- Government agencies continue approaching MACRO for assistance with collaborative planning and dispute resolution needs, especially with regard to environmental and land use conflicts. In addition, Maryland's Human Relations Commission has created an active volunteer mediation program and Maryland's Office of Administrative hearings provides

mediation services and offers mediation training for agency staff and counsel, greatly increasing mediation awareness and use within state government.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- In 1999, the Maryland ADR Commission completed a statewide collaborative process to build consensus on a comprehensive practical action plan called Join the Resolution. MACRO evolved out of the ADR Commission to implement its action plan in 2000, and continues to work collaboratively with courts, schools, communities, criminal and juvenile justice agencies, government agencies and the business community. Over the past three years, MACRO has become a significant conflict resolution funding source and a prominent member of the state's dispute resolution community. MACRO has expanded its capacity and staff (beyond a Director, Deputy Director and Administrative Assistant) to add a Public Policy Director, a Court ADR Resources Director, an ADR Evaluations Director and a Grants Manager. MACRO has been, and continues to be, a catalyst for creating and expanding ADR programs across the state, and in addition, MACRO sponsors a variety of ADR conferences, workshops and events. We have become an ADR information resource and have created several ADR videotapes. We have also been involved in significant research projects. With the assistance of a Hewlett Foundation grant, MACRO has helped several states working to organize large-scale collaborative processes, and MACRO has expanded the scope of its evaluation and quality assurance efforts.

## **MASSACHUSETTS**

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### **Massachusetts Office of Dispute Resolution (MODR)**

Susan M. Jeghelian, Executive Director

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[www.state.ma.us/MODR](http://www.state.ma.us/MODR)

### **Achievements of the past year**

- The Massachusetts Office of Dispute Resolution's biggest accomplishment in FY03 was continuing to operate and to fulfill commitments for mediation, facilitation, training and systems design services for public disputes despite an 80% cut in its FY03 legislative appropriation and the layoff of two-thirds of its staff.
- MODR spearheaded two successful outreach and training collaborations with dispute resolution programs serving the public sector. MODR hosted an award ceremony and reception at the statehouse for public officials and legislators to highlight the outstanding dispute resolution work being done by state agencies, courts, and community mediation programs. MODR designed and delivered groundbreaking cultural competency training for mediators participating on Conflict Intervention Teams in schools in collaboration with the MA Attorney General's Office and MA Association of Mediation Programs and Practitioners.
- MODR designed and delivered for the first time two 30-hour open enrollment mediation trainings for state, municipal and court officials. Open enrollment trainings enable a public agency to fund one or a few of its employees to attend dispute resolution skills training open to employees from a variety of agencies, rather than engaging MODR to provide a training exclusively for that agency itself. This type of training is more affordable to agencies in

difficult budgetary times when the expense of custom-designed training for individual agencies may no longer be an option.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Executive Branch: Executive Order #416: Integrating Dispute Resolution Into State Government (enacted November 1999) directs all MA executive branch agencies to appoint an in-house ADR coordinator, to develop a system for assessing and referring all appropriate matters to ADR, to do annual planning for agency dispute resolution programs and to submit an annual report on agency dispute resolution activities. This DR policy has definitely raised awareness, built capacity and promoted the use of dispute resolution in MA state government.
- Judicial Branch: The Supreme Judicial Court Uniform Rules on Dispute Resolution (effective February 1999) provide a vehicle for courts to approve programs to provide a variety of dispute resolution services and to refer appropriate cases to dispute resolution. Currently, all seven MA trial court departments have dispute resolution programs providing services to cases referred by local courts and parties. This system promotes and facilitates the use of court-connected dispute resolution and has created real options for litigants with cases pending in the Commonwealth.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- The role of the Massachusetts Office of Dispute Resolution (MODR) has evolved over the past few years in several ways. First, while MODR continues to refer appropriate matters to its panel of affiliated private sector neutrals, MODR's professional staff now provide at least 50% of the agency's services. Second, while MODR continues to provide mediation for public disputes either in response to individual case referrals or referrals to on-going dispute resolution programs, in recent years MODR has seen an increasing number of requests for facilitation, consensus-building, training and systems design services from public agencies. Third, since the dispute resolution needs of the MA courts are now being well-served by numerous private sector programs approved by the courts, MODR no longer operates court programs but rather assists the courts by consulting on policy development, systems design and training. Fourth, over the past three years, MODR has been conducting extensive outreach to cities and towns in the Commonwealth. This outreach is demonstrating that there is a strong need for and interest in dispute resolution education and services among municipal officials.

## **MICHIGAN**

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### **Office of Dispute Resolution**

### **State Court Administrative Office**

### **Michigan Supreme Court**

Doug Van Epps

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<http://courts.michigan.gov/scao/dispute/odr.htm>

### **Achievements of the past year**

- Increase in civil case filing fees to support ADR initiatives
- Development of video and audio public service announcements
- Increased focus on mediation in the court environment

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- New ADR court rules authorizing judges to order persons to attempt ADR processes in both general civil and domestic relations cases
- Mediation training policies and procedures
- Model domestic violence screening protocols, training guidelines, and manual

These are very positive developments.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- Our office will increasingly focus on ADR in the court environment as another organization, the Dispute Resolution Association of Michigan, emerges to work more closely with state agencies and private organizations to provide dispute resolution services. Non-court related services, such as providing agricultural mediation or special education mediation services, are being spun off to help narrow our focus and expertise.
- Having established new ADR systems and court rules, we will also focus on developing pilot projects in the courts to evaluate the impact of the new rules and services.

## **MONTANA**

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### **Montana Consensus Council**

Nedra Chandler or Kathy van Hook (Interim)

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mcc.state.mt.us/css/

### **Achievements of the past year**

- Statutory recognition.
- Assisted successful problem solving on Bureau of Land Management Resource Management Plans, prairie dog management, upland game bird management, power plant permitting, Total Maximum Daily Load program implementation, Olmstead Decision implementation, Forest Service travel management planning.
- Successful program on public dispute resolution training program in that we had the most diverse groups of participants ever.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Putting the Montana Consensus Council in statute is the main change we've had, since the UMA and other things along those lines never went anywhere these past sessions. We think statutory recognition of the Council and its mission is a good thing for Montana and the future of collaborative policy making.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- We have now become much more reliant on intergovernmental contracts to fund our work since we have (we think temporarily) lost our general fund support. That is an evolution from a more stable and diverse funding base of foundation grants, fees, and general fund that we had until 2003.

## **NEBRASKA**

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### **Nebraska Office of Dispute Resolution**

Wendy Hind, Director  
[whind@nsc.state.ne.us](mailto:whind@nsc.state.ne.us)

#### **Achievements of the past year**

- Two permanent sources of funding: General fund money to support the Office of Dispute Resolution and .75 cent court filing fee to support community mediation
- Increased visibility with the legislature, governor, and judges.
- Governor approval for an executive order to be announced to mandate a mediation option in every state agency.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Family Group Conferencing is being used statewide by the Department of Health and Human Resources. This is an asset to our state.
- As the Executive Order is put in place, the option of mediation for all state agency employer/employee disputes will also be a benefit to the state.
- The Uniform Mediation Act was passed with amendments to ensure the integrity of the community mediation legislation that is already in place. The piece of legislation that we designed will benefit not only the community mediation system, but private mediators as well.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- Each of the community mediation centers that the Office of Dispute Resolution funds have grown and expanded in their own ways to meet the needs of their regions. They have become more independent in their ability to make decisions which are appropriate to the needs of their centers, but still have a very close group decision making process for statewide issues.
- As Director of the Office of Dispute Resolution, the last three years have not been a concentrated effort on new programs, rather an effort of survival within the huge cuts which have affected state government. As our funding has become very stable through a combined source of general funds and court filing fees, we are anxious to re-examine programs, and get more involved nationally.

## NEW HAMPSHIRE

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### **New Hampshire Court ADR Program**

Peter V. Wolfe

Pwolfe@courts.state.nh.us

www.courts.state.nh.us/adrp/index.htm

#### **Achievements of the past year**

- Implementation of our Probate Court Mediation Program
- Updating the Ethical Standards for Civil Mediators
- Updating our Civil Mediation Rule

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Child Custody Mediation Program has been implemented
- Probate Court Program has been implemented
- Updated Civil Mediation Rule addressing “Good Faith” and Mediation Ethics

#### **How our DR organization's role evolved or changed over the past 3-4 years**

- No, because we lack funding to make the necessary changes.

## NEW MEXICO

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### **Office of Public Facilitation**

Julia Hosford Barnes

jhb@nm.net

#### **Achievements of the past year**

- The Office of Public Facilitation is a state office created to encourage state agencies to use collaborative process such as mediation and facilitation.
- The Office worked with 16 different state agencies/ divisions on over 19 public policy projects during the last fiscal year.
- While the Office was not successful in passing enabling legislation, we were successful in coming up with a consensus bill acceptable to the mediation and facilitation communities in New Mexico. Now maybe we can get the legislature to pass it!
- The Office made the transition from grant funding to state monies, at least for the next fiscal year. We have been successful in tapping into a wide-range of funding sources, including grants, state contract funding, and using filing fees allocated for ADR use.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- More individual state agencies are creating an ADR or ombudsman position to work on state issues with the public. Two large agencies have each added a position during this last fiscal year. The Department of Health has added an ADR policy position and Taxation and Revenue has created an ombudsman office to work directly with the public. This is a change for the better.
- The new administration is very interested in making quick, effective changes to improve many public policy issues facing New Mexico. The new administration has been receptive to using facilitative processes to achieve these goals. The new administration has been successful at moving forward on a number of new initiatives, several of which have included facilitation with the public and between agencies. This is a positive change for New Mexico and is a good opportunity to increase the use of facilitation.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- The Office of Public Facilitation is almost two years old. We have developed a good reputation among the agencies that have used our services. The project is now evolving into a resource for agencies on a project by project basis. The oversight group for the Office would like for the Office to do less project work and be more of a capacity building resource for state agencies. However, all funds presently available to the Office are for project-specific tasks.
- In the next few years, we hope to build sources of funding for the Office that will allow the Office to provide more overall resources to state agencies and do less project work. However, at this point in the development of the Office, that is not possible. We will work to include the capacity-building work into each project that we develop with the specific state agencies.

## **NEW YORK**

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### **New York State Unified Court System, Office of ADR Programs**

Daniel M. Weitz, Esq., State Court ADR Coordinator  
 dweitz@courts.state.ny.us  
 www.nycourts.gov/ip/adr

### **Achievements of the past year**

- Development of Child Permanency Mediation pilot programs in several counties through public-private multi-agency collaboration
- Implemented statewide attorney-client fee dispute resolution program through collaboration with bar associations
- Enhanced training and apprenticeship standards for mediators serving in the Community Dispute Resolution Centers Program (CDRCP)

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Recent developments in the theory of mediation have been incorporated into standards for mediator training and practice. This evolution has created an even greater degree of consistency between the practice of mediation and its underlying values.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- New programs and expansion into new cases as well as processes (i.e. ENE, Summary Jury Trials) has broadened our experience and expertise.

## **NORTH CAROLINA**

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### **Public Dispute Resolution, School of Government**

#### **University of North Carolina – Chapel Hill**

John B. Stephens

stephens@iogmail.iog.unc.edu

<http://ncinfo.iog.unc.edu/programs/dispute/index.html>

### **Achievements of the past year**

- Well-run workshops on negotiation, collaboration and handling difficult public hearings
- Co-author with C. Carlson: ACR-Environmental and Public Policy Section White paper on *Governance and Institutionalization*
- Program director attained tenure – greater long-term stability for program and likelihood to partner with School of Government experts on nonprofit-local government relations, public leadership, economic development.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Court system – more on family disputes; but not a part of my program
- Greater general use of facilitation in regulatory development or formal public comment efforts; primarily at state level and through DENR and DOT.
- Greater general awareness of mediation and facilitation in government broadly, a little less so on public policy issues.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- Loss of faculty colleagues who taught an excellent two-week facilitation course to state and local public officials. That course is moribund, but beginning to look at doing a different, shorter version.
- More advising about possibilities for resolution short of third party intervention; a little less direct mediation or facilitation.
- Expanded effort on MPA course for public dispute resolution; seeking to bring challenges of the field in to students and give them field experience.

## **Natural Resources Leadership Institute**

Steve Smutko

steve\_smutko@ncsu.edu

www.ces.ncsu.edu/nrli

### **Achievements of the past year**

- We completed the first year of our "Leadership for Environmental Justice" program. The goal of this program is to build the capacity of people in low resource communities to effectively make decisions and resolve environmental policy issues by developing leadership skills in collaborative problem-solving and principled negotiation, and establishing new networks with government agencies, industries and environmental organizations.
- We provided training in principled negotiation and collaborative problem-solving to landowners, local, state, and federal government representatives, power company officials, industry representatives, conservationists and other stakeholders in North and South Carolina to prepare them for engaging in a hydropower re-licensing process in the Catawba River basin.
- We facilitated a hydropower relicensing settlement agreement among landowners, river adventure outfitters, local, state, and federal government agencies, power company officials, conservationists, and other stakeholders in the Nantahala and Tuckasegee River basins in western North Carolina.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- The North Carolina Department of Transportation recently established an on-call contract to provide facilitation and facilitation training services to its Office of Environment, Planning and Local Government Affairs. According to the NCDOT, "such facilitation will serve to support the development of partnerships, effective communication, and efficient process in order to deliver the transportation program without compromising the quality of the natural and human environment."

### **How our DR organization's role evolved or changed over the past 3-4 years**

- No change.

## **NC Dispute Resolution Commission (DRC)**

Leslie Ratliff, Executive Director

leslie.ratliff@nccourts.org

www.ncdrc.org

### **Achievements of the past year**

- A dispute resolution menu (neutral evaluation, arbitration, mediated settlement, and summary trial) was established in our large, statewide superior court mediation program. Previously, mediation was the only option available under the program rules.

- Rules were adopted to simplify requirements for dual certification in North Carolina, i.e., certification as both a superior and district (family) court mediator.
- In the communication arena, more work has been done on our website at [www.ncdrc.org](http://www.ncdrc.org) and we will soon begin distributing mailing our newsletter on-line as opposed to mailing it in an effort to cut costs.
- The Commission and the NC Bar's Dispute Resolution Section co-sponsored a committee to develop an ADR Handbook for NC mediators, court officials, lawyers, the public and others. The book is a history of the development of dispute resolution in NC as well as a practice manual. Copies will be mailed at no charge to all our State's certified mediators in September of 2003.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- A dispute resolution menu is now available in superior court. Last year only mediated settlement was provided for in the rules. I see this as positive because now parties and their lawyers will have choices.
- The Commission has beefed up its certification criteria in the area of mediator character and conduct. Applicants who are seeking to be certified or to renew their certification must now respond to questions about pending grievances, disciplinary actions and convictions. Matters reported are investigated. I see this as positive in the sense that character issues are now being taken more seriously.
- The Commission is becoming more technologically proficient in terms of its web site and use of e-mail for batch mailings. Significant cost savings should result from reliance on these resources as we will be able to reduce both printing and copying costs.
- Our relatively new Family Financial Settlement Program is continuing to expand statewide with the result that mediation is available to more divorcing couple in NC.

#### **How our DR organization's role evolved or changed over the past 3-4 years**

- The Commission's role seems to have remained fairly static over the past three years. The main change is that a State Judicial Council was created in NC and the Commission now reports to the Dispute Resolution Committee of the State Judicial Council rather than directly to the Supreme Court. The functions that the Commission performs have not, however, altered.

## **OHIO**

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### **The Ohio Commission on Dispute Resolution and Conflict Management**

Maria Mone

[mmone@cdr.state.oh.us](mailto:mmone@cdr.state.oh.us)

[www.state.oh.us/cdr/](http://www.state.oh.us/cdr/)>

#### **Achievements of the past year**

- Restoration of Commission funding for fiscal years 2004-05
- National and international recognition for work in school-based conflict management, including invitation to speak at *Conflict Resolution in Schools* international conference in the

Netherlands at the request of the United Nations Economic and Social Cooperation Organization (UNESCO) and the European Centre for Conflict Prevention

- Independent evaluation reports demonstrating cost savings for Commission-administered programs

## **Supreme Court of Ohio, Judicial and Court Services Division,**

### **Dispute Resolution Programs Section**

C. Eileen Pruett, Program Manager

pruette@sconet.state.oh.us

www.sconet.state.oh.us

### **Achievements of the past year**

- Approximately \$500,000 for training and grant award programs has been returned to budget for FY 2004.
- Our section has implemented successful, multi-disciplinary training about domestic abuse issues in mediation.
- Our section has continued to partner with OCDRCM to offer truancy prevention through mediation program support and training.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Our section developed cultural competency training program for mediators, both as stand-alone training and as component of other training programs. This is a very positive change.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- Our program/office was turned into a section when the Court reorganized itself two years ago. We are now part of a division with other sections that provide services to trial and appellate courts. Our function and methods of working with the courts have stayed the same.
- Our section has adapted to changing funding environment by moving from large scale grant programs to providing more training and skill building capacity for practicing mediators. We use multi-site and joint grant award mediation programs to maximize resources and reach under served rural areas. The Supreme Court has recognized that smaller and more rural counties may never be able to fund a staff mediator at the local level. Grant funding is currently being used for four programs that serve eight counties. In one county a staff mediator serves all courts in the others the mediator is shared by two or three counties. We hope to identify stable state funding to support these very small programs after grant funding ends.

## OKLAHOMA

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### Institute for Issue Management and Alternative Dispute Resolution

Weldon Schieffer, Program Manager

wschief@okstate.edu

<http://iimadr.okstate.edu>

#### Achievements of the past year

- A new state statute that authorizes much broader interaction with dispute resolution and conflict management efforts, both statewide and regionally. It also greatly expanded the application of projects and education in the approaches offered to a wide variety of stakeholder populations.
- An advisory council for public input and policy determinations for the applications of issue management and ADR.
- A network support group of interested stakeholder organizations to bring focus and implementation toward projects.

#### New DR policies or practices in place today that were not in place in 1999 / 2000

- Facilitation and neutrally facilitated dialogue among user groups is growing rapidly. This has created a certain level of stress for organizations unaccustomed to a more public accountability and transparency, while at the same time planting the seeds for more public awareness and input.

#### How our DR organization's role evolved or changed over the past 3-4 years

- The new Institute appears to be in step with the demands for a much broader application of ADR. As such our Institute is challenged with bringing professional services online and generating enough public awareness and education in the attributes associated with service delivery.

## PENNSYLVANIA

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### Pennsylvania Department of Environmental Protection ADR Program

Cheryl Peoples, Division Manager

cpeoples@state.pa.us

#### Achievements of the past year

- Over 20 projects were facilitated through the Employee Development and Facilitation Consulting Division (EDFC). Trained facilitators (over 50 in the Facilitator Pool) work independently on a local level to provide facilitation and consulting services. Overall, customers are pleased with the professionalism and the final product when working with DEP facilitators to help them accomplish their goals.
- The ADR Program works within the whole spectrum of collaborative processes—strategic planning, facilitated consensus building, multi-party decision making with a variety of

participants—internal working groups, partnerships, external customers, regulated community, the public.

- Marketing of the ADR Program and Facilitator Pool—talked with regional directors and program managers about services the Employee Development and Facilitation Consulting Division provides, including ADR—Facilitation and Mediation. Marketing/awareness included an ADR Program video and brochure.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Executive Order 2002-7, Integrating Mediation Into State Government was issued on June 14, 2002. This called for each department, board, commission, council, and agency under the jurisdiction of the Governor of PA to:
  - (1) Become familiar with mediation, where and how it might be used, and regularly explore, encourage, and facilitate its use;
  - (2) Designate a Mediation Coordinator who shall encourage and facilitate the use of mediation and report directly to the secretary, director, commissioner(s), or other designated official(s).
- On December 17, 2002, DEP designated two persons to serve as Mediation/Alternative Dispute Resolution Co-Coordiators. They are Jennifer Handke, Employee Development and Facilitation Consulting and Justina Wasicek, Office of Chief Counsel.  
Challenges include priming PA to embrace dispute resolution as a best practice in state government, keeping the momentum going of the ADR program, and bringing the new administration on board with viewing ADR as a daily part of routine culture.

#### **How our DR organization's role evolved or changed over the past 3-4 years**

- Work within DEP and network with other agencies, commissions, and boards to train personnel in dispute resolution skills.
- Encourage and support the use of dispute resolution practices in state government.
- Implement consensus-seeking processes to resolve conflict and make decisions in many areas, i.e., among multiple agencies/commissions, between DEP and the public, within agencies, and a combination of these.
- Keep abreast of dispute resolution initiatives nationally and follow closely what other state governments are doing.

## **SOUTH CAROLINA**

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### **South Carolina Supreme Court Commission on Alternative Dispute Resolution**

Hon. William L. Howard, Sr., Chair

### **South Carolina Supreme Court Board of Arbitrator and Mediator Certification**

Carol Sanders, Esq., Chair

*Together these programs regulate mediation and arbitration in the state's circuit courts and family courts*

Andrew M. Walsh, Esq.

[andrew.walsh@scbar.org](mailto:andrew.walsh@scbar.org)

[www.scbar.org/adr](http://www.scbar.org/adr)

#### **Achievements of the past year**

- **Reformation** — In Fall 2002, Supreme Court reconstituted and reinvigorated ADR Commission and Board, shifting operating functions to state bar which in turn hired full-time staff attorney to administer program; active subcommittees were created addressing every aspect of court-ADR in South Carolina.
- **Mandate** — Chief Justice has given full support to expand pilot program in the largest counties to a uniform mandatory ADR program in all family and circuit courts statewide.
- **Outreach and Collaboration** — Website created for easy access to all ADR forms, rules, neutral rosters, links, FAQ's and more; brochures, directories and legal telephonic info service created/updated re ADR; speaking/discussion engagements booked with significant ADR target audiences (judges, clerks, attorneys, neutrals, public); Commissioners from full cross-section of ADR community actively soliciting comment from all target audiences; administrator sent to national ADR events to glean advice from sister states and programs.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- **New Administrator** — While Supreme Court Commission and Board remain regulators, administrative duties have been shifted from the Judicial Department's Office of Court Administration to the South Carolina Bar.
- **Rules Modified Slightly** — Rule modified slightly to require Chief Judge for Administrative Purposes to approve filing of arbitration awards as judgments. Also, family court mediator certification eligibility standards were modified slightly to require professional be licensed for at least 3 years, as required of circuit court mediators; change provides uniformity, albeit ultimate role of non-licensed professionals in mandatory court-ADR remains debated. [Note: In South Carolina, no certification is needed for neutral *selected* by all parties; certification only required for *appointment* of neutral in mandatory court-ADR where parties have failed timely to do so. See [www.scbar.org/adr](http://www.scbar.org/adr) for details.]
- **Application fees Increased** — Due to budget constraints, statewide rollout of mandatory ADR from current "pilot counties" has slowed, but still anticipated in next two years. To fund Bar, Commission and Board expenses for court-ADR program at current levels, application

fees were increased to \$250, but annual renewals remain at \$50. South Carolina Bar makes up shortfall from its budget. Courts in pilot counties struggling to fund local ADR efforts; Commission's funding subcommittee looking at options.

- Out-of-State Training — While applicants with training from outside South Carolina remain eligible for certification under a “substantial compliance” test, standards are being narrowed to more closely match the strictly enforced standards for applicants with in-state training, i.e., 40 hours of instruction covering specific subjects. See [www.scbar.org/adr](http://www.scbar.org/adr) for details.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- Supreme Court commitment to court-annexed ADR continues to grow, focusing on citizen satisfaction with judicial system as first priority and docket management/cost savings secondary considerations. Commission and Board maturing and benefiting from collaborative input from all sectors, including experiences in the “pilot counties” and becoming more recognized as organized leader of ADR efforts in state.

## **TEXAS**

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### **Center for Public Policy Dispute Resolution at The University of Texas School of Law**

Jan Summer, Executive Director

Susan Schultz, Deputy Director

[jsummer@mail.law.utexas.edu](mailto:jsummer@mail.law.utexas.edu)

[sschultz@mail.law.utexas.edu](mailto:sschultz@mail.law.utexas.edu)

<http://www.utexas.edu/law/cppdr>

### **Achievements of the past year**

- We were funded by the Texas Legislature!!
- Facilitated and institutionalized quantitative analysis of effort to use ADR in state agencies through inserting requirements for ADR use in each of 22 agencies enabling statutes. These 22 agencies were undergoing Sunset review this legislative session.
- Tenth Anniversary Celebration

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Texas Intergovernmental Shared Neutrals Program (TISNP)- a governmental mediator pool to increase the availability of inexpensive impartial third parties for public entities.
- Children's Justice Act (CJA)- The Child Protective Services section of the Texas Department of Protective and Regulatory Services received a grant under the CJA to explore mediation-based alternatives for CPS custody cases. The Center's pilot project evaluation reports continue to find that mediation is an effective and successful alternative to the traditional CPS case management system in the pilot projects.
- Sunset — The Texas Sunset Advisory Commission adopted a new Across-the-Board (ATB) recommendation in November 2002 that directs state agencies, as they go through the Sunset process, to develop and implement a policy to encourage the use of alternative

dispute resolution (ADR). The policy is to address the use of ADR for external and internal disputes, the use of negotiated rulemaking, and the designation of an ADR Coordinator. The use of ADR in federal agencies has proven successful. Similarly, the resolution of disputes through ADR should allow state agencies to become more cost-effective and efficient.

- Informal Dispute Resolution (IDR)- Nursing homes: 1995 legislation required the Department of Human Services (DHS) to use binding arbitration for certain enforcement cases involving nursing homes.
- Mediation Rules in 2 groundwater districts

### **How our DR organization's role evolved or changed over the past 3-4 years**

- Add a Natural Resource focus
- More outreach to local government
- In-depth assistance to 22 Sunset agencies in ADR systems design implementation and quantitative analysis

## **UTAH**

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### **ADR Council for the executive branch of state government**

Palmer DePaulis

Palmer@utah.gov

www.tax.utah.gov/adr

### **Achievements of the past year**

- Completing our bid contract and award to CommUnity Resolutions, Inc. for consultation and ADR design expertise in a governmental/institutional setting. They will work with the ADR Council to evaluate statewide needs and opportunities for incorporating ADR across executive agencies.
- Creating two pilot programs: One for our Department of Human Resource Management/Career Service Review Board and the other in our office of licensing for the Department of Human Services.
- Creating a 30 hour accredited training program for in house mediators.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- In November 2002 the Utah Court Rule 4-510 was amended to include a requirement that all ADR providers listed in the Court Roster must pass an exam on the ADR Ethical Code. Since the first of the year, over 100 providers in Utah have successfully completed the exam. To date, the most commonly missed questions have been questions regarding mediator confidentiality.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- In our first year of operation we have organized our ADR Council with membership from all state agencies and have started two pilot programs. We have been successful in creating a vibrant organization that will take root in our agencies. See number 1 above.

## **VERMONT**

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### **The Dispute Resolution Center at Woodbury College**

Neal Rodar - Director

[nealr@woodbury-college.edu](mailto:nealr@woodbury-college.edu)

[www.woodbury-college.edu](http://www.woodbury-college.edu)

#### **Achievements of the past year**

- More partnering with state agencies in developing ADR programs.
- Vermont Dept. of Aging and Disabilities in working with Elder care and Adult Guardianship Mediation
- Vermont Dept. Developmental and Mental Health Mediation Program, Vermont Dept. of Social and Rehabilitative Services Mediation Program and The Vermont Environmental Enforcement Agency are all new programs we have collaborated on.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Vermont has just promulgated Rule 16.3 and rule that has people enjoying the opportunity to avail themselves of a choice of ADR practices before picking a jury in Civil (Superior) Court cases.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- We keep growing with our partners. Here in Vermont ADR is the "rage".

## **VIRGINIA**

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### **Interagency Dispute Resolution Council**

(Created in 2002 by the Virginia Administrative Dispute Resolution Act)

Chairman: Sandra D. Bowen, Secretary of Administration

Sheryl D. Bailey, Deputy Secretary of Administration

Claudia Farr, Director, Department of Employment Dispute Resolution

[cfarr@edr.state.va.us](mailto:cfarr@edr.state.va.us)

#### **Achievements of the past year**

- The creation of the Council and appointment of Council members

- The appointment and training of agency DR coordinators
- The establishment of a Council work plan and three working subcommittees

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- The Virginia Administrative Dispute Resolution Act was passed and took effect in July 2002. This Act encourages the use of ADR and collaborative problem-solving in government by requiring state agencies to develop policies and procedures on the use of these approaches across a broad array of governmental functions (e.g., procurement, contracting, policy-making, interagency and intergovernmental relations, enforcement, licensure, environmental issues, etc.). The Act also created the Interagency Council to serve as a resource to agencies seeking to use ADR.

#### **How our DR organization's role evolved or changed over the past 3-4 years**

- N/A, the Interagency Council was just created about a year ago.

### **Institute for Environmental Negotiation**

E. Franklin Dukes  
 FrankDukes@virginia.edu  
 www.virginia.edu/ien

#### **Achievements of the past year**

- Continued development of the award-winning Virginia Natural Resources Leadership Institute, with over 100 alumni and a new class of 30 for 2003-2004 and a pilot expansion for the Southeast region beginning November 2003;
- Awarding of nine research grants through the Community-Based Collaborative Research Consortium (with funds provided by the Hewlett Foundation) and convening national symposium focusing on research and evaluation of community-based collaborative outcomes in September 2003;
- Initiation of the Community Solutions program with the Virginia Association for Community Conflict Resolution, including conducting eight 2-day trainings in public (community-wide) consensus building, involving about 300 individuals, in 2003.

#### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- Although a regulation was published ostensibly supporting agency use of conflict resolution processes in 2001 or 2002, its promulgation was performed quietly and we are not aware of any changes that have made any impact in Virginia.

#### **How our DR organization's role evolved or changed over the past 3-4 years**

- The Institute for Environmental Negotiation continues an evolution from being primarily *project-driven* to becoming *program-driven*. This reflects a more strategic approach to emphasizing the *capacity building* (teaching, training and strategic planning) and *knowledge building* (research and writing) roles of IEN while maintaining emphasis on conflict resolution *practice* (consensus building, conflict resolution and public participation). Specific new

programs include the *Virginia Natural Resources Leadership Institute*, the *Community-Based Collaborative Research Consortium* (cbcrc.org), and the *Community Solutions* program with the *Virginia Association for Community Conflict Resolution*.

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## **Supreme Court of Virginia**

Geetha Ravindra, Director

[gravindra@courts.state.va.us](mailto:gravindra@courts.state.va.us)

[www.courts.state.va.us](http://www.courts.state.va.us)

## **Achievements of the past year**

- We developed an on-line searchable mediator directory. Litigants, attorneys, judges etc. can go on-line and enter search criteria (such as education, years of experience, type of expertise, fees etc.) and a list of certified mediators fitting those criteria will appear. A detailed profile on the mediators selected may also be reviewed.
- This past year we assisted the Virginia Mediation Network with the development of a Mediation Info-Disk. This CD provides a very easy to understand overview of the mediation process, the role of the mediator, and cases appropriate for mediation. Judges, attorneys and disputants are highlighted in the disk attesting to the benefits of mediation. It can be used by courts, attorneys and the public and is very inexpensive at only \$5 a disk.
- This year we are initiating a new ADR option in Virginia. Retired Judges are being trained in mediation and settlement conference skills. Trained Judges will then be available to the Circuit Courts to provide judicial settlement conferences at no cost to the litigants.

## **New DR policies or practices in place today that were not in place in 1999 / 2000**

- For the past three years we have allocated funds to support Dispute Resolution Coordinators in the courts. These Coordinators review case files, facilitate the referral of appropriate cases to mediation, serve as a liaison between the court and the mediators, conduct mediation orientation sessions, monitor the progress of cases referred to mediation, and file mediated agreements with the court. The Coordinators have assisted in more effectively and efficiently integrating the use of ADR in the courts.
- In 2000, an amendment was passed to Section 20-124.4 of the Code of Virginia which provides the payment of \$100 per case in all custody, visitation and support mediations. This legislation has had a tremendous impact on the use of mediation in family cases. This past fiscal year alone we did 7360 custody/visitation mediations. The most wonderful aspect of this legislation is that it provides access to mediation at no cost to litigants.

## **How our DR organization's role evolved or changed over the past 3-4 years**

- With the increase in funding to support mediation, a tremendous amount of time and resources is spent in monitoring contracts with mediation providers and providing technical assistance to courts.
- There is an increased reliance on technology for data and information. We have an on-line Mediation Information System to capture data on court referred cases. In addition, we spent a great deal of energy creating a new Searchable Mediator Directory. We are hoping to move to an on-line method of re-certification in the future.

- Over the past few years there has been an increased emphasis on restorative justice programs, truancy mediation, child dependency mediation and other forms of ADR.

## **Virginia Department of Employment Dispute Resolution (EDR)**

Claudia Farr

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### **Achievements of the past year**

- Learning to do more with less -- despite budget cuts, maintaining the quality and timeliness of EDR's basic services to state employees and agency management (administration of grievance procedure, workplace mediation services, telephone consultations, training in workplace conflict management).
- Providing coordination and lead staff support for the Commonwealth's newly enacted Virginia Administrative Dispute Resolution Act and Interagency Council, the purpose of which is to assist state agencies and localities in identifying beneficial uses of collaborative practices and ADR across a broad array of governmental functions.
- In partnership with other state agencies, leading the development of a web-based data system for the collection, analysis and reporting of employee grievance issues, resolutions, and other related data.

### **New DR policies or practices in place today that were not in place in 1999 / 2000**

- The most significant new change for localities and the executive and legislative branches of state government was as positive one -- the 2002 passage of the Virginia Administrative Dispute Resolution Act (VADRA), which encourages and supports the use of collaborative practices and ADR for problem-solving in state agencies and localities. Since July 2002, and as established by VADRA, agency coordinators have been appointed, an Interagency Council and three subcommittees have formed and begun working, and virtually all Council members and agency coordinators have received basic training in ADR as a new and effective tool for governing.

### **How our DR organization's role evolved or changed over the past 3-4 years**

- EDR's statutory role in administering the grievance procedure, a statewide mediation program, and other workplace dispute resolution services for state employees and employers has remained fairly constant over the past 3-4 years, with one significant improvement being a move to a full-time hearings staff employed by EDR as opposed to exclusively appointing hearing officers from a list of private sector attorneys who served sporadically on an hourly basis. That said, since 2002, EDR's role has included staffing and coordination responsibilities for the Interagency Council established by the Virginia Administrative Dispute Resolution Act. We expect that EDR and other agencies that have successfully used ADR will serve as useful resources to other public bodies interested in trying ADR approaches to one or more governmental functions such as procurement, contracting, policy-making, interagency and intergovernmental relations, enforcement, licensure, or environmental issues.