

February 1999

Update to State Offices of Conflict Resolution

New Web Board

PCI will be hosting a new Web Board which will, among other uses, provide a list serve for the state offices of conflict resolution. This email mailing list will enable the state offices to stay in closer touch with each other. As the Web Board gets up and running in the next month or two, Lee Moore will be contacting you individually to get you signed on to the system and orient you to its uses. If you have any questions or input about the web board, please contact her at the Santa Fe office.

Y2K and ADR

Many states are actively preparing for Y2K compliance but only a few are preparing to handle potential ensuing conflicts that may arise due to this computer bug. In anticipation of these types of conflicts, this may be an opportune moment for educating state agencies about the possibilities of ADR techniques to solve conflicts or collaboratively "prepare for the worst." Are you aware of what is going on in your state? We will be posting relevant Y2K ADR information on our web site (www.agree.org) and hosting an ongoing Web Board conversation about Y2K and ADR for all state agencies interested in learning more about ADR and sharing the approaches they are taking in their states. Please let us know if there are any actions being taking in your state in this regard.

Board Meeting in Florida in January

The PCI Board convened its bi-annual meeting in Sanibel, Florida on January 21st and 22nd. A highlight of the meeting was a presentation given by Bob Jones on the work the Florida Conflict Resolution Consortium did with the National Energy Reliability Council. He noted that state offices should be aware of opportunities for conflict resolution as states begin addressing the issues surrounding electric utility deregulation.

News from the States

Montana Memorandum of Understanding

Enclosed, please find a copy of a Memorandum of Understanding between the Montana Consensus Council, Bureau of Land Management and the US Forest Service's Regional office. This is a great example of how such an agreement can be drafted to promote consensus approaches to issues by Federal agencies in concert with a state office of conflict resolution.

New Survey on Texas State Agency Use of ADR

The Center for Public Policy Dispute Resolution of Texas has recently released a report on a very interesting survey of state agencies and their use of ADR. The report covers ADR use with regard to employment disputes, agency contracts, rulemaking, contested cases and litigation. The survey was completed by 99 state agencies, and the report includes recommendations for agencies, based on the results. Much of this information may be useful to you in serving state agencies in using ADR techniques. To obtain a copy of the report, please call the Center at **512.471.3507**.

Legislative Resolution Passed in Nebraska

In the first session of Nebraska's 96th Legislature, a resolution was passed to "encourage all levels of government to explore, study, develop, and implement appropriate procedures to allow and enhance the use of the approaches and processes of consensus building, conflict resolution, and collaboration on issues that arise before them." The Resolution also calls for the Legislature to eliminate any identified barriers to the use of collaborative processes. For a copy of the resolution, please contact PCI or Kathleen Severens at the Nebraska Office of Dispute Resolution: **402.471.3148**.

Legislation pending in Montana, New Mexico and New York

In three states (MT, NM and NY), legislation has been introduced to encourage state agencies to use ADR. The Montana Consensus Council has proposed a bill which would authorize the continuance of the Council. The legislation is currently tabled. New Mexico's legislation would encourage state agencies to use mediation and allow them to appoint dispute resolution coordinators. The NY legislation would establish a Committee made up of appointees of the Governor and others, and authorize it to serve in a convening role. From experience, we know that clear legal authority promoting use of mediated approaches can be an important adjunct to a state DR program. So, PCI is supporting these efforts and we will keep you posted on the progress of this legislation.

ADR Incentives

US Department of Justice Encourages Use of Dispute Resolution

Some of the ideas being initiated at the US Department of Justice (DOJ) may be relevant to any organization looking for creative incentives for ADR use and experience. Peter Steenland, Senior Counsel for Dispute Resolution with DOJ, reports on a number of measures and incentives they have put in place to encourage the use of dispute resolution. They include: training; a special fund for mediation; peer recognition; hiring and promotion practices; and a new dispute resolution performance rating category -- all done under the strong and visible leadership of Attorney General Reno. Each of these initiatives are briefly described below:

TRAINING: The Department has instituted an extensive training program. They emphasize the following points through these sessions:

1. ADR gives attorneys the ability to retain control over a program, in contrast to litigation where the judge can potentially take that control away.
2. ADR promotes better, smarter negotiation.
3. ADR provides an opportunity to deal directly with the other party rather than opposing counsel.
4. ADR meets the goals of clients and businesses that are looking for efficiency.

A MEDIATION FUND: Attorney General Reno has created a separate fund for mediation. More than anything else, Peter says this has contributed to the use of mediation because the money for mediators does not have to come out of division budgets.

PEER RECOGNITION: DOJ has an awards system and has added an award for the attorney who has made the best use of DR. The Attorney General and the DR Coordinator send notes to attorneys who have used DR well and this recognition is publicized within DOJ.

HIRING AND PROMOTION PRACTICES: The AG has issued a memo saying that when making hiring and promotion decisions, equal consideration should be given to the attorney's use of DR.

PERFORMANCE RATING: When the performance rating system was recently revised, staff attorneys were involved in the process. They created a new category for evaluation -- negotiation and the use of DR. This has created an incentive for supervisors to pay more attention to opportunities for using DR.