

# NM ADR NEWS

Encouraging communication through mutual respect

## ADR CURRENT EVENTS AND TRAINING UPDATE

Jan – March 2009

### About the OADPR

The 2007 Governmental Dispute Prevention & Resolution Act (GDPR) created the OADPR to promote early dispute resolution and positive collaboration among state employees and agencies through the development and support of effective and efficient programs and policies. The Office operates as a Bureau of the Risk Management Division (RMD) of the General Services Department (GSD).

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NEW MEXICO  
GENERAL SERVICES DEPARTMENT

**1. US EEOC-RUAM PRESENTATIONS.** 2-hour briefings presented by Yvonne Gloria-Johnson, ADR Program Coordinator for the US EEOC, Phoenix District Office, were held in Santa Fe and Albuquerque in November, 2008 and January, 2009. The no-cost briefings explained the nature of EEOC charges against the state, and the procedures state agencies will now follow under the State's recently signed *Regional Universal Agreement to Mediate*. Additional briefings are planned in Spring and/or Summer 2009.

**2. MONTHLY BROWN BAG LUNCH PRESENTATION SERIES.** No-cost lunch-time presentations on ADR-related topics by subject matter experts; participants will receive practical information for immediate use. Upcoming presentations (date and location to be determined):

- **February: Presenter: Deer Oaks EAP, "Solving Interpersonal Conflicts on the Job." Location: Las Cruces**
- **March: Presenter: GSD/ADR Bureau, "Using ADR in State Government" Location: Grants.**

**3. "CONFLICT, COMMUNICATION AND CHANGE: DEALING WITH DIFFERENCES IN THE WORKPLACE." February 5 & 6, 2009, (Thurs.-Fri.), 8:30AM – 4:30PM. Presenter: Cynthia Olson. Location: UNM/Cont. Ed., 1634 University Blvd. NE, Albuquerque. Cost is approximately \$260.00.** The GSD/RMD ADR Bureau is partnering with UNM/Cont. Ed. Division to present a 16-hour customized course on workplace conflict management.

**4. MEDIATION TRAINING AT SF COMMUNITY COLLEGE. April 13 – 17, 2009 (Mon. – Fri.), 8:00 AM – 5:00 PM; Santa Fe Community College. Cost is approximately \$255.00.** The GSD/RMD ADR Bureau is partnering with SFCC to present a 40-hour customized course on conflict resolution and mediation skills; participants can earn 3 college credits for the course and ADR-related volunteer service.

**5. ADR COORDINATOR CERTIFICATION PROGRAM. March 24 – 26, 2009 (Tues. – Thurs.), 8:30 AM – 4:30 PM; Presenter: Cynthia Olson, Location: UNM/Cont. Ed., 1634 University Blvd. NE, Albuquerque. Cost is approximately \$260.00.** A specialized ADR program management course for state ADR Coordinators.

**6. LABOR MANAGEMENT RELATIONS TRAINING.** The Albuquerque Area Federal Mediation and Conciliation Service, in partnership with state government, will present 3-day training programs statewide. This no-cost training, presented to managers from agencies with collective bargaining agreements in place, was designed to improve labor-management relationships through the development of collaborative problem-solving approaches. Skills learned in this training will enable participants to jointly respond to change and makes future mediation efforts more effective. **Tentative training schedule for the 3-Day Labor Management Relations Training: Roswell: March 3, 10-11; Las Vegas: March dates to be determined; Farmington: April 7, 15-16; Raton: April 21, 28-29; Alb.: May 5, 12-13; Santa Fe: May 19, 27-28; and Las Cruces: June 2, 9-10.** NOTE: An "Advanced Labor Management Relations Facilitation" class is also tentatively scheduled for Summer 2009.

*Please contact our Office for more information on any of the above items.*



**Mediation is Helping the New Mexico Office of the State Engineer Andy Core, Hearing Examiner 12/12/2008**

*ADR is being used in the Office of the State Engineer of New Mexico during hearings of disputed water rights cases. The mediations they have carried out have approximately an 85% success rate.*

It is alleged that Mark Twain opined that “Whiskey is for drinking and water is for fighting over.” The New Mexico State Engineer knows it well; he is tasked with administering the public waters of this beautiful, but thirsty, state.

Historically, the hearings unit of the Office of the State Engineer (OSE) [www.ose.state.nm.us](http://www.ose.state.nm.us) has assisted by hearing disputed water right cases. Now, Alternative Dispute Resolution (ADR), mostly through mediation, is included in our handling of these sometimes-rancorous arguments and the National Judicial College (NJC) helped with that implementation.

Our hearing process can be intense. Applicants must publish legal notice of a water right application for three weeks and anyone who objects on grounds of impairment to existing water rights, conservation of water, or public welfare may file a protest. The Rules of Civil Procedure and Evidence generally apply and OSE hearings are essentially equivalent to District Court trials. The hearings can take several days, with the potential of a trial de novo on appeal to the District Court.

Since the hearings unit was formed in 1997, there have never been more than three examiners. Now, only two of us share the docket for the whole state. The cases coming before us are becoming more problematic. The issues are increasingly complex, the number of parties is soaring, and difficult legal issues are routinely being raised. Until about a year ago, we were being overwhelmed.

ADR came to be the path that we chose to address docketing concerns. Our Governor had strongly encouraged agency use of ADR techniques to cut costs. The Legislature had joined in the movement by passing the New Mexico Governmental Dispute Prevention and Resolution Act and the Mediation Procedures Act, which defined the scope, procedures and confidentiality of mediations done by agency personnel. After a successful pilot program, the hearings unit hired a full-time ADR Officer.

That person is highly trained in mediation skills, but the Hearing Examiners were not. We are both graduates of previous NJC courses, so that’s where we looked for help. The two examiners and our ADR Officer signed up for Mediation for Administrative Law Judges. [www.judges.org/courses](http://www.judges.org/courses). We even convinced the school to offer the course in Santa Fe! Having successfully completed the course allows us to cite formal 40-hour training from a credible source, gives us a common vocabulary and approach to mediation, and has enabled us to design and implement effective individual and co-mediator models.

One unexpected benefit arose as we started into the mediations. People representing the state’s highly diverse ethnic and cultural traditions have responded well to OSE-facilitated mediations, finding there a non-threatening way to express very profound differences in belief about water. The mediations that have been carried out have a success rate of approximately 85%. In our most recent reporting period, mediation accounted for approximately 25% of closed cases. The State Engineer is pleased with the progress and continues to support us strongly in making mediated settlement a major tool in slaking the thirst of our ever-growing state.

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One day we must come to see that peace is not merely a distant goal that we seek, but that it is a means by which we arrive at that goal. We must pursue peaceful ends through peaceful means.

***Martin Luther King, Jr.***