



FY2018
ANNUAL REPORT

NEW MEXICO
ALTERNATIVE DISPUTE
PREVENTION &
RESOLUTION
ADVISORY COUNCIL



OUR MISSION

The 2007 New Mexico Governmental Dispute Prevention and Resolution Act requires that state agencies provide access to Alternative Dispute Resolution (ADR) options to prevent or resolve disputes early, thereby preventing expensive and complicated administrative processes or litigation. The Act established the state ADR Bureau within the General Services Department, Risk Management Division, to assist state-insured entities in conflict resolution processes and policy development to maintain and advance cost-reduction efforts throughout the state. The core mission and responsibilities of the ADR Bureau are established in the Act: to promote ADR; to organize and manage ADR programs for state agencies; to coordinate the use of neutral parties; to implement the development and use of ADR strategies; to provide staff support for the ADR Advisory Council; to maintain information and educate government officials about training and the use of ADR and referrals; and, to report annually on the use, cost and success of ADR.

In our work, the ADR Bureau is committed to:

"Encouraging communication through mutual respect."

TABLE OF CONTENTS	Our Mission	1
	Introductory Letter from ADR Bureau	2
	ADR Services and Activities	3
	- Bureau-Provided ADR Services	3
	- Other Reported ADR Services	4
	- ADR at US EEOC	5
	- Training and Outreach	6
	- Eighth Annual ADR Symposium	6 and 7
	Financial and other Beneficial Impacts	8
	FY2019 Goals	8



SUSANA MARTINEZ
GOVERNOR

ED BURCKLE
CABINET SECRETARY

LARA WHITE DAVIS
DIRECTOR
RISK MANAGEMENT

State of New Mexico
General Services Department

ADMINISTRATIVE SERVICES DIVISION
(505) 827-2000

FACILITIES MANAGEMENT DIVISION
(505) 827-2141

STATE PURCHASING DIVISION
(505) 827-0472

RISK MANAGEMENT DIVISION
(505) 827-0442

STATE PRINTING & GRAPHIC SERVICES BUREAU
(505) 476-1950

TRANSPORTATION SERVICES DIVISION
(505) 827-1958

December 1, 2018

Honorable Governor Martinez, Legislators, and Acting GSD Secretary Ned Fuller:

The state's Alternative Dispute Resolution (ADR) program was established by the Governmental Dispute Prevention and Resolution Act of 2007 [NMSA § 12-8A-1 et seq.]. The statute defines ADR as a voluntary process other than litigation used to prevent or resolve disputes, and requires that state agencies provide access to ADR. In support of this mandate, the GSD/RMD/ADR Bureau provides assistance to state agencies in identifying ADR resources, coordinating services and supporting the development of improved administrative processes. This report presents some of the highlights of our work in FY2018, and reflects ADR's use, cost and success within state entities.

On behalf of the Alternative Dispute Prevention and Resolution Advisory Council and ADR Bureau staff, this annual report is submitted for your consideration and review.

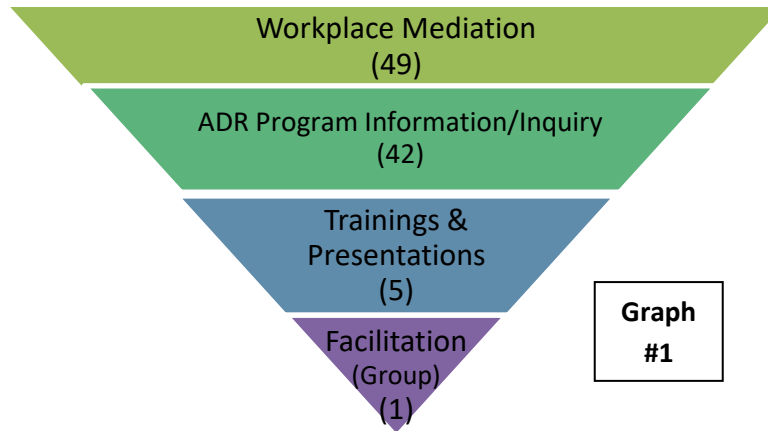
Sincerely,

A handwritten signature in blue ink, appearing to read "Mary Jo Lujan".

Mary Jo Lujan
ADR Bureau Chief

ADR SERVICES AND ACTIVITIES

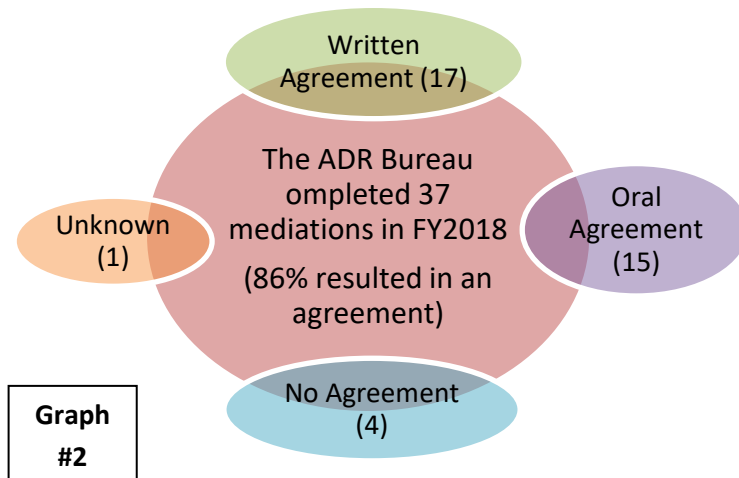
BUREAU-PROVIDED ADR SERVICES: Early, voluntary and confidential mediation is central to the program’s statutory mission; the program’s volunteer mediators perform the critical services that make this program possible and available to our customers, state agencies and employees, at no cost. The ADR Bureau receives various ADR requests statewide. In FY2018 there were 97 requests (a decrease of 14% from the previous year). The requests by type are reflected in **Graph #1**:



Graph #1

Completed mediation requests originated primarily from executive agencies, with the majority (70%) coming from Santa Fe and Albuquerque. This year we responded to requests from outlying cities such as Farmington, Silver City, Las Cruces, Roswell, Clovis and Las Vegas. Of the 49 requested mediations, 12 requests did not occur because they were withdrawn or cancelled.

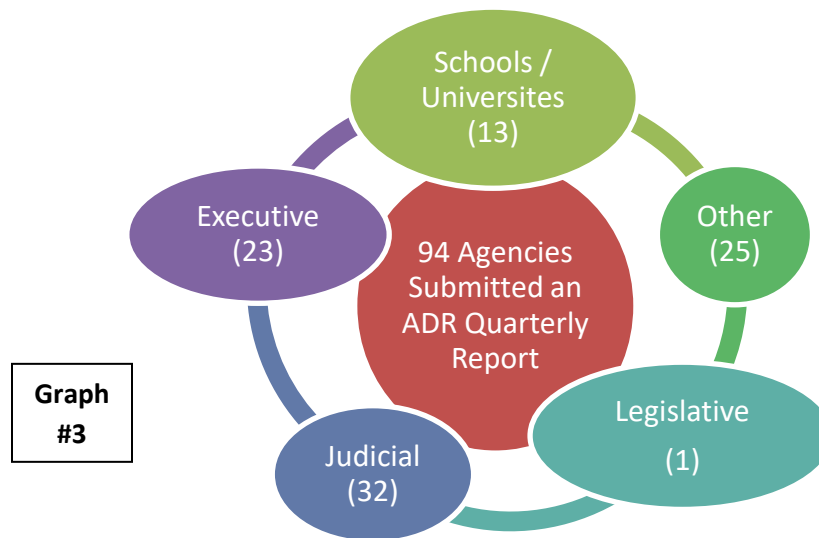
Graph #2 reflects the 37 requests completed, with 32 (86%) resulting in a written or oral resolution.



Graph #2

OTHER REPORTED ADR SERVICES: The program also tracks ADR activity within state agencies, self-reported on a quarterly basis by designated ADR Coordinators. ADR Coordinators serve as the liaison between their agency and the ADR Bureau and are responsible for promoting, coordinating, monitoring and reporting ADR. In FY2018, 94 agencies submitted an ADR report (a decrease of 20% from the previous year). The consolidation of all human resource functions in the Executive branch ordered by Governor Martinez in February 2017 resulted in the loss of many ADR Coordinators within participating agencies because many ADR Coordinators were classified as Human Resources staff. The program attributes FY2018’s decrease in program participation and service levels with the continuing loss of front-line liaisons throughout the state.

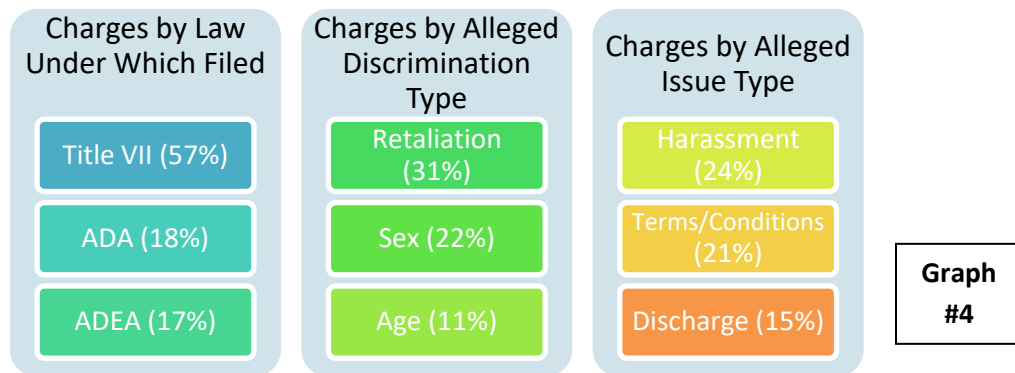
Graph #3 reflects the total number of reporting agencies from all branches of state government, schools/universities and local public bodies. 61 out of the 94 state agencies reported ADR activity; the total number of ADR activities (1286) reported decreased by almost 8% from the previous year (1397).



Agencies reported 97 mediation requests; of those completed, 32 resulted in a written or oral resolution (33%). Continuing a five-year trend, 61% of mediations were employee/supervisor relationships while 39% were co-worker relationships. Agencies also reported other ADR processes such as arbitration and group facilitation. A significant number of other ADR activities (inquiries, outreach, meetings, etc.) were also reported (48%). On a positive note, reported ADR or communication-based trainings increased this year by over 17%.

ADR AT US EEOC: Since 2008, the ADR Bureau has served as the state’s formal liaison with the US Equal Employment Opportunity Commission (EEOC). Pursuant to a *Regional Universal Agreement to Mediate*, all eligible EEOC charges of discrimination naming any RMD-insured entity of the State of New Mexico as the employer/respondent are referred to EEOC’s mediation program. Understanding the nature of charges filed against the state is essential in facilitating and monitoring the state’s mediation participation, preventing recurrence and mitigating loss.

Graph #4 reflects the characteristics of the 81 discrimination charges filed against the state and received by the ADR Bureau in Federal FY2018 (Oct 1, 2017 – Sept 30, 2018); the basis of the majority of these charges changes a five-year trend. Americans with Disabilities Act (ADA) is now the second most frequently filed *Charge by Law* (previously it was Age Discrimination in Employment Act [ADEA]). Harassment has now become the most frequently filed *Charge by Alleged Issue Type* (previously it was Terms/Conditions). Retaliation remains the most frequently filed *Charge by Alleged Discrimination Type*.



As in recent years, the number of charges deemed eligible for mediation was low. **Graph #5** reflects the status of those 6 charges offered mediation in FY2018; of the 6 offered, 4 state agencies accepted the invitation to mediate; this does not indicate mediation ultimately occurred.



*For the majority of FY2018 (Sept 1, 2017 - April 18, 2018), EEOC placed a moratorium on mediation, effectively eliminating mediation opportunities for state agency respondents. The Risk Management Division and US EEOC continue to explore strategies to increase the state’s mediation participation and resolution rates.

TRAINING AND OUTREACH: State volunteer mediators are the program’s service providers, a renewable resource made possible by professional training that produces and sustains ready and capable practitioners. New mediators contribute to program sustainability by bringing in new talents and energy and by offsetting natural attrition. The ADR Bureau provides professional 40-hour mediation certification courses emphasizing facilitation and problem-solving skills; in return, graduates commit to serving the program and benefit from the ADR Bureau’s continuing education opportunities. In FY2018, the ADR Bureau recruited and trained 36 new mediators from throughout the state. This year we offered the certification course in Albuquerque and for the first time, in Farmington, a historically underserved part of the state.

The Bureau also offers training in communication-based practices and basic conflict management. These training events support the workforce’s capacity to effectively identify early opportunities to resolve issues at the lowest organizational level. Though classes are open to all state employees, the Bureau focuses marketing to those agencies with histories of high loss in employment-related civil rights claims for the greatest positive impact and return on investment. The Bureau also schedules numerous outreach events to connect directly with state employees and actively participates in sister organizations, including the NM Supreme Court ADR Commission and the NM State Bar ADR Committee, to network and leverage resources statewide.

EIGHTH ANNUAL ADR SYMPOSIUM:

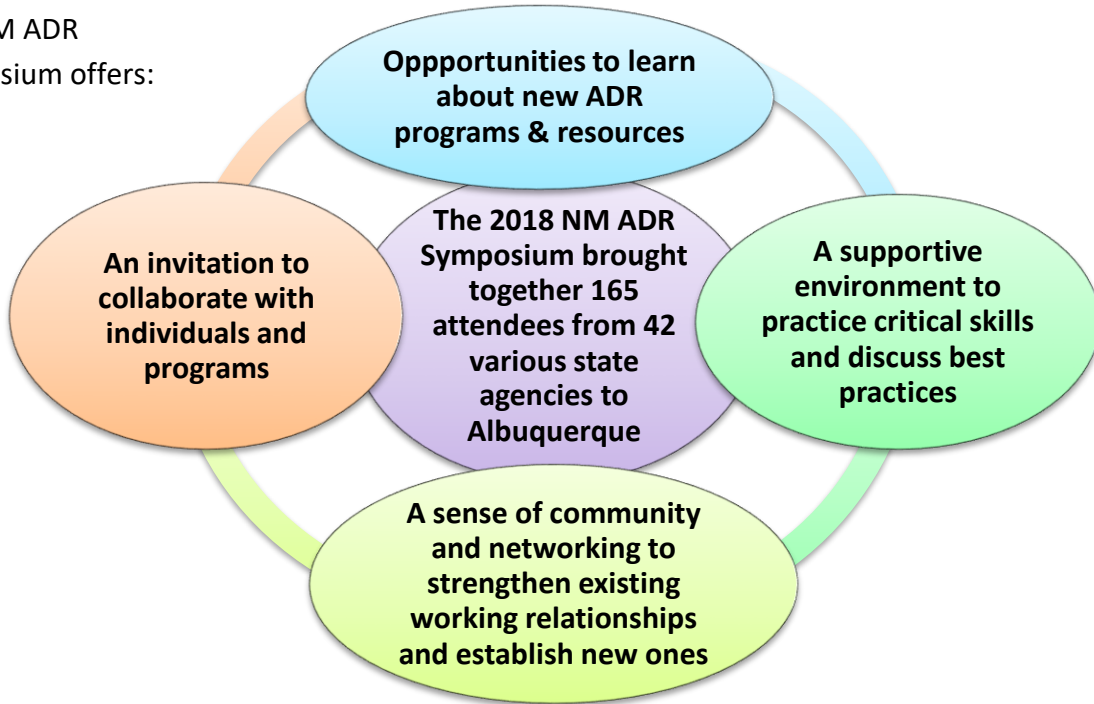
Each year, the ADR Bureau organizes and hosts the New Mexico ADR symposium, two days of workshops and presentations by colleagues and partnering organizations, offered at *no cost* to attendees. It is the only event of its kind in the state and is the ADR Bureau’s principal outreach event. This year the event was held at the New Mexico Division of Vocational Rehabilitation (DVR) – Gibson Campus in Albuquerque.



2018 NM ADR Symposium in the DVR Computer Lab:

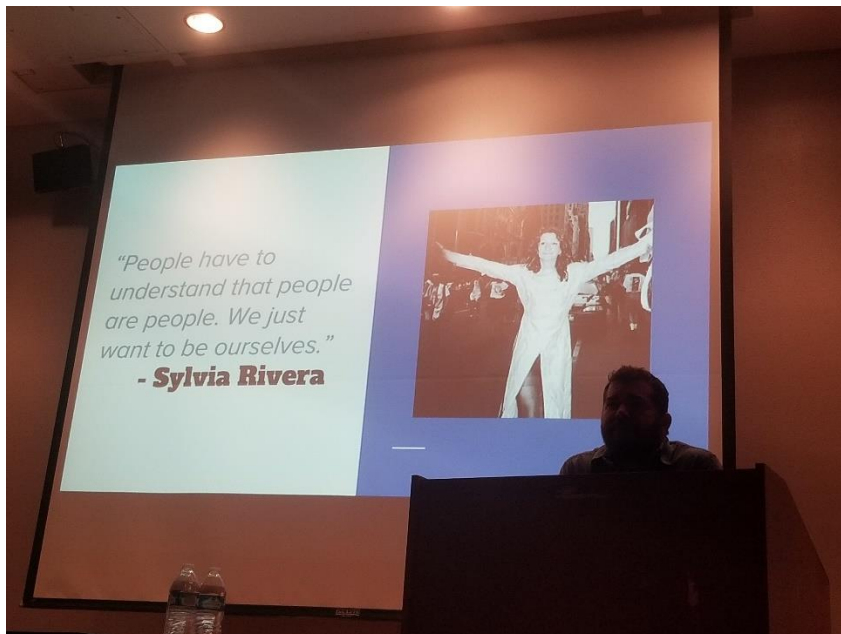
Kevin Spears from the 9th Judicial District Court speaks as part of the Judicial Panel Update moderated by Judge Jeff McElroy of the 8th Judicial District Court in Taos.

The NM ADR Symposium offers:



2018 NM ADR Symposium in the DVR Auditorium:

Adrien Lawyer of the Transgender Resource Center of New Mexico shares the presentation Transgender 101.



FINANCIAL AND OTHER BENEFICIAL IMPACTS

For the 5-year period FY2014-FY2018, the State of New Mexico experienced 515 employment-related civil rights claims with an estimated total incurred cost of over \$26 million and an average cost per claim of almost \$51 thousand. Loss history is the basis for the annual civil rights premium assessed to state agencies (over \$17 million in FY2018). In FY2018, the Bureau and state agencies *together* reported 64 mediated resolutions, with **a cost-avoidance value of over \$3.3 million dollars**. Cost savings could be higher if employees in conflict were more open to seeking assistance through the Bureau and if state agencies were more engaged in the program and mediation at EEOC. Increased participation could also provide other benefits – fewer formal complaints, improved workplace relationships and increased efficiency and productivity.

FY2019 GOALS

- ✓ Increase outreach beyond the Rio Grande corridor to expand program’s service area.
- ✓ Focus outreach on state agencies without ADR Coordinators to promote program’s services.
- ✓ Continue collaborating with US EEOC to increase state agency participation in mediation process.
- ✓ Fill staff vacancy to enable full performance of program’s mission-critical work.



*“People fail to get along because they fear each other;
they fear each other because they don't know each other;
they don't know each other because
they have not communicated with each other.”*

~ Martin Luther King Jr.



**OFFICE OF ALTERNATIVE DISPUTE
PREVENTION AND RESOLUTION**

"Encouraging communication through mutual respect."

Visit our website at: <http://adr.gsd.state.nm.us>

ADR BUREAU STAFF

Mary Jo Lujan
Bureau Chief
(505)827-0444
maryjo.lujan@state.nm.us

Stefanie Ortega
Management Analyst
(505)827-0576
stefanie.ortega2@state.nm.us



State of New Mexico

General Services Department

"THE HEART AND SOUL OF STATE GOVERNMENT"

**GENERAL SERVICES DEPARTMENT
RISK MANAGEMENT DIVISION**

1100 St. Francis Drive, PO Box 6850, Santa Fe, NM 87502

**NED FULLER, Acting GSD Secretary
LARA WHITE DAVIS, RMD Director**